

# **EXHIBIT E**

UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF PENNSYLVANIA

IN RE:	:	Case No. 23-10763
	:	
STREAM TV NETWORKS, INC. CH: 11	:	ADV. No. 23-00057
	:	
Stream Tv Networks, Inc. Vs	:	Philadelphia, Pennsylvania
Shadron L Stastney	:	November 27, 2023
	:	10:58 a.m.
A) Motion Re: Motion For	:	
Preliminary Injunction Request	:	
For Temporary Restraining Order	:	
Filed By Alastair Crawford,	:	
Delaware And Other Law Firms	:	
Representing And Acting In	:	
Concert With John Doe(S) And/Or	:	
Jane Doe(S), Jane Doe(S), John	:	
Doe(S), Asaf Gola, Kevin Gollop,	:	
Hawk Investment Holdings Limited,	:	
Investment Banks Employed By John	:	
Doe(S) And/Or Jane Doe(S),	:	
Krzysztof Kabacinski, Arthur	:	
Leonard Robert "Bob" Morton,	:	
Seecubic B.V., Sls Holdings Vi,	:	
Llc, Shadron L Stastney,	:	
Seecubic, Inc., Patric Theune	:	
Represented By Rafael X.	:	
Zahralddin	:	
	:	
B) Motion For Sanctions For	:	
Violation Of The Automatic Stay	:	
Filed By Stream Tv Networks, Inc.	:	
Represented By Rafael X.	:	
Zahralddin	:	
. . . . .	:	

BEFORE THE HONORABLE MAGDELINE D. COLEMAN  
UNITED STATES BANKRUPTCY JUDGE

APPEARANCES:

For the Debtor:

Keith Kodosky, Esq.  
Lewis Brisbois Bisgaard & Smith  
600 Peachtree Street NE  
Suite 4700  
Atlanta, GA 30308  
404-991-2183

Rafael X. Zahralddin  
Lewis Brisbois Bisgaard & Smith  
500 Delaware Avenue, Suite 700  
Wilmington, DE 19801  
302-985-6004

Kevin F. Shaw  
Lewis Brisbois Bisgaard & Smith  
500 Delaware Avenue, Suite 700  
Wilmington, DE 19801  
302-295-9436

For Hawk Investment Holdings  
Ltd:

Steven Caponi, Esq.  
K&L Gates  
600 N. King Street, Suite 901  
Wilmington, DE 19801  
302-416-7080

Jonathan N. Edel, Esq.  
300 South Tryon St., Suite 1000  
Charlotte, NC 28202

For SeeCubic, Inc.:

Eben P. Colby, Esq.  
Marley Ann Brumme, Esq.  
Skadden Arps Slate Meagher &  
Flom, LLP  
500 Boylston Street, 23rd Floor  
Boston, MA 02116  
617-573-4800

For SLS Holdings VI, LLC:

Davis Lee Wright, Esq.  
Robinson Cole, LLP  
1201 North Market Street  
Wilmington, DE 19801  
302-516-1703

APPEARANCES:

For Rembrandt 3D Holding  
Ltd.:

Andrew Peter Demarco  
Devlin Law Firm, LLC  
1526 Gilpin Avenue  
Wilmington, DE 19806  
302-449-9010

For Shadron L. Stastney:

Terence M. Grugan  
Ballard Spahr  
1735 Market Street, 51st Floor  
Philadelphia, PA 19103  
215-864-8320

Proceedings recorded by electronic sound recording;  
transcript produced by TheRecordXchange.

## INDEX

	<u>Direct</u>	<u>Cross</u>	<u>Redirect</u>	<u>Recross</u>
--	---------------	--------------	-----------------	----------------

WITNESSES:

Christopher Michaels

(By Mr. Kodosky)

8

211

(By Mr. Colby)

196

(By Mr. Caponi)

203

1 NOVEMBER 27, 2023 10:58 A.M.

2 THE BAILIFF: All rise.

3 THE COURT: Good morning, counsel.

4 UNIDENTIFIED SPEAKER: Good morning, Your Honor.

5 MR. KODOSKY: Good morning, Your Honor.

6 THE COURT: Okay. If I recall correctly -- well,  
7 this the matter of Stream TV and Technovative, Inc., and it is  
8 a motion for a preliminary injunction. I'm not quite sure if  
9 it's preliminary at this point, but that's what it's called.  
10 And if I recall correctly after our rather lengthy telephone  
11 conference, last -- was that Friday?

12 MR. KODOSKY: Wednesday, Your Honor.

13 THE COURT: Oh, it was Wednesday, the day before  
14 Thanksgiving. Yes, indeed. If I recall correctly, what we  
15 planned for today's hearing is for the Debtor movant to  
16 conclude its case in chief with the testimony of its, of Mr.  
17 Michaels, correct? And then once that occurs, we were going to  
18 then have the Respondents -- I have an echo. Is that -- I'm  
19 hearing and echo. Okay. Then the Respondents were going to  
20 commence their rebuttal. Well, I guess -- is it a rebuttal  
21 witness or is it their response to the Debtor's case in chief?

22 UNIDENTIFIED SPEAKER: It would be our response.

23 THE COURT: Right. I don't know why we're calling  
24 them a rebuttal, but we're not even there yet. Are we okay,  
25 John? We did address one technical problem. I think Ken

1 addressed that one.

2 UNIDENTIFIED SPEAKER: I got --

3 THE COURT: Okay. I'm waiting for Taylor (phonetic)  
4 to bring me a -- I guess we can continue on this. okay. Let's  
5 start with entry of appearances, please. First for the Debtor  
6 movant.

7 MR. KODOSKY: Keith Kodosky along with my partner,  
8 Rafael --

9 MR. ZAHRALDDIN: Zahralddin.

10 MR. KODOSKY: -- Zahralddin.

11 THE COURT: Thank you very much.

12 MR. KODOSKY: And Your Honor, we also have Mr. Kevin  
13 Shaw --

14 MR. ZAHRALDDIN: Kevin Shaw.

15 MR. KODOSKY: -- as well in the court with us.

16 THE COURT: Okay. Who's here for the responding  
17 parties?

18 MS. BRUMME: Morning, Your Honor. Marley Ann Brumme  
19 and Eben Colby of Skadden Arps for SeeCubic, Inc.

20 THE COURT: For SeeCubic.

21 MR. CAPONI: Morning, Your Honor. Steven Caponi from  
22 K&L Gates on behalf of Hawk.

23 MR. WRIGHT: Good morning, Your Honor. Davis Wright  
24 of Robinson and Cole on behalf of SLS Holding Vincenzo, LLC.  
25 Terence Burgan from Ballard Bar in Manhattan. Anyone else

1 morning?

2 MR. GRUGAN: Good morning, Your Honor. Terance  
3 Grugan from Ballard Spahr on behalf of Mr. Stastney.

4 THE COURT: Anyone else?

5 MR. DEMARCO: Morning, Your Honor. Andrew DeMarco  
6 from Devlin Law Firm here for Rembrandt.

7 THE COURT: Are there any preliminary matters or can  
8 we commence with the testimony of Mr. Michaels?

9 MR. KODOSKY: Your Honor, I think we should commence  
10 with the testimony and if there's anything that we need to  
11 bring up later, I'll alert you to it for on the -- on the  
12 Debtor's side.

13 THE COURT: Mr. Colby? Ms. Brumme?

14 MR. COLBY: No, Your Honor.

15 THE COURT: Mr. Caponi? Anyone else? Okay. Let's  
16 begin.

17 MR. KODOSKY: Thank you, Your Honor.

18 THE CLERK: Mr. Michaels, can you hear me?

19 MR. MICHAELS: Yes, I can.

20 CHRISTOPHER MICHAELS, DEBTOR'S WITNESS, SWORN

21 THE CLERK: Thank you. Could you please state and  
22 spell your name for the record?

23 THE WITNESS: Christopher Michaels, spelled,  
24 C-H-R-I-S-T-O-P-H-E-R Michaels, M-I-C-H-A-E-L-S.

25 THE CLERK: And if you could please state your



1 address for the record.

2 THE WITNESS: My residence address is 12417 Country  
3 Day Circle, usually abbreviated, CIR for the post office, Fort  
4 Myers Florida, 33913.

5 THE CLERK: Thank you.

6 DIRECT EXAMINATION

7 BY MR. KODOSKY:

8 Q Good morning, Mr. Michaels. Can you hear me okay?

9 THE COURT: Can we see him?

10 THE WITNESS: Yes, I can.

11 THE COURT: Can we see him. Okay. There we go.

12 BY MR. KODOSKY:

13 Q To begin, Mr. Michaels, I'd like to start with just a few  
14 questions regarding your personal background.

15 THE COURT: Before we begin, counsel, Mr. Michaels,  
16 do you have any -- can you adjust your camera, so that we can  
17 see that you have nothing in front of you on -- if you're at a  
18 desk or wherever it is you're seated.

19 THE WITNESS: I can try. Let's me see. We have --  
20 so I'm not sure what you're seeing.

21 THE COURT: Or if you can just attest that there's no  
22 documents or there's nothing in front of you.

23 THE WITNESS: The only thing in front of me is -- I  
24 deactivated my iPad meeting. I put it in airplane mode and I  
25 have a silent cell phone and then the computer monitor itself.

1 THE COURT: Okay, but --

2 THE WITNESS: And then just a mic.

3 THE COURT: But no document?

4 THE WITNESS: There's no papers.

5 THE COURT: All right.

6 THE WITNESS: No document.

7 THE COURT: All right.

8 THE WITNESS: -- in front of me.

9 THE COURT: All right. Thank you. You may proceed,  
10 Mr. Kodosky.

11 MR. KODOSKY: Thank you, Your Honor.

12 BY MR. KODOSKY:

13 Q Mr. Michaels, I'd like to start with a few questions  
14 regarding your personal background. Do you hold any degrees?

15 A I hold a degree in Chemistry from Bucknell University. I  
16 hold a juris doctorate from Syracuse University and a Master in  
17 Business Administration from the Wharton School University of  
18 Pennsylvania.

19 Q What years did you receive those degrees?

20 A The degree from Bucknell 1989, '90s. I finished early in  
21 -- but the law degree was in 1993 and 2014 MBA.

22 Q Thank you. Are you a member of any bars?

23 A Yes, the New York State Bar Association. I was admitted  
24 in New Jersey, but I let that lapse once my family moved out of  
25 the state and I am a registered patent attorney.

1 Q What year did you become a registered patent attorney?

2 A I actually passed the agent's exam in 1990 and once you  
3 pass the -- so I was admitted in April of 1990, but all you do  
4 is inform that you are now an attorney and they move you from  
5 an agent to patent attorney status. It is not a  
6 reregistration. It's the same registration, 1990.

7 Q Can you very briefly describe how one becomes a patent  
8 attorney? Is there a process?

9 A Yes. To be qualified to sit for the registration exam,  
10 you need a technical background and the patent office changes  
11 that from time to time, but generally, what they call the hard  
12 sciences, physics, chemistry. For a long time, biology, for  
13 example, didn't even qualify. And once they've approved your  
14 -- you have the proper technical background, they allow you to  
15 sit for a registration exam and once passed, they submit you to  
16 an ethics review and then you become registered as someone  
17 authorized to represent individuals before -- individuals and  
18 companies before the patent and trademark office.

19 Q Are you familiar with the term USPTO?

20 A Yes, the United States Patent and Trademark Office.

21 Q Thank you. Are you a member of a law firm?

22 A Yes. I -- the image behind me is the foyer of my law  
23 firm, Brown and Michael's. Mike Brown has retired but practice  
24 has been in existence since about 1980 it's had various  
25 successors and partners come and go, but its current

1 incarnation is Brown and Michael's.

2 Q And where is the firm located?

3 A Ithaca, New York.

4 Q Any other branch offices?

5 A We have -- we're going to be moving our offices up into  
6 Syracuse, but right now, we're largely working as remote. I,  
7 for example, am sitting in Florida. My current business  
8 partner is in Syracuse and one of our long term patent agents  
9 is in Pittsburgh, Rochester, New York, so we work largely  
10 remotely.

11 Q And when did you begin to practice at Brown and Michaels,  
12 PC?

13 A 1989.

14 Q Are you the managing partner of the firm?

15 A Yes.

16 Q What year did you become managing partner?

17 A January 1st, 1994.

18 Q There's been reference made to Rembrandt in these  
19 proceedings. Are you also employed by Rembrandt 3D Holding  
20 Limited?

21 A I am an officer of the company. I do not receive  
22 compensation or W-2 employment, but I'm an appointed officer.

23 Q And what office do you hold specifically?

24 A Chief financial officer.

25 Q And there are actually two companies with Rembrandt in the

1 name. Is that correct?

2 A Yes.

3 Q What is the second company's name?

4 A Rembrandt 3D Corp. And it's a Delaware Corporation.

5 Q In broad terms, can you please explain the difference  
6 between the two companies?

7 A Yes. Rembrandt 3D Holding Limited is a holding company.  
8 It owns most, if not all, of the intellectual property that is  
9 related to these two companies for Rembrandt. The Rembrandt 3D  
10 Corp is an operating company. It provides the installations,  
11 purchases, contracts for our supply displays and then provides  
12 services to clients who receive the displays. For example,  
13 Rembrandt 3D Corp was the entity that sold the system to the  
14 Frank L. Wright Museum, Pittsburgh Airport, et cetera and where  
15 you can see installations of the no glasses 3D product prepared  
16 by the Rembrandt companies.

17 Q Switching gears. Are you familiar with the Debtor, Stream  
18 TV Networks, Inc.?

19 A Yes.

20 Q Are you familiar with Stream's Ultra D products?

21 A Yes.

22 Q What do you know about those products?

23 A We -- a fair amount, but we -- it is limited to what we  
24 are able to see as users of the system. We've not seen any of  
25 the internal code. We evaluated extensively the Stream TV

1 products before litigation was commenced and after and during  
2 that litigation in the 2016, '17 litigation in the Southern  
3 District of New York. Part of the mediation process was we  
4 were provided examples of the displays that they were selling  
5 at the time. And I sat in a room with executives and discussed  
6 with our various team members the Ultra D product and what it  
7 was capable of doing relative to various other products that we  
8 had manufactured and various products that Phillips had  
9 manufactured in the past.

10 Q And we're going to come back to that. In the meantime,  
11 I'd like to ask you, does Rembrandt currently have a business  
12 relationship with Stream TV?

13 A Yes.

14 Q Could you --

15 A We have a settlement agreement -- go ahead. Sorry.

16 Q I was just going to ask if you could please explain.

17 A Sure. The resolution of the litigation between Stream TV  
18 Networks, Inc. and Rembrandt was a settlement agreement and  
19 license agreement that provided for a number of things. One, a  
20 cash payment; two, honoring the Rembrandt intellectual  
21 property; three, the supply of at cost displays through  
22 production agreements to be negotiated, but at all times at  
23 cost. And we're now up to, you know, millions of units that  
24 would be owed under that agreement. That works for both  
25 companies, in that we're providing at least cost. It's not

1 that Stream would be losing money, but we are now moving our  
2 supplier from other sources to Stream.

3 Q You referenced earlier Rembrandt's intellectual property.  
4 What right does Stream TV have to use Rembrandt's IP under the  
5 license agreement?

6 A Stream is a nonexclusive licensee. That allows them to  
7 use it. It does not allow them to transfer any rights to that  
8 technology other than to a consumer. And that's fairly  
9 standard in the industry. But the -- if they wanted to do a  
10 deal where they transferred out a manufacturing license, for  
11 example, to somebody else, they would have to come back to  
12 Rembrandt and Rembrandt would directly license that  
13 manufacturer, if we were willing to do so at all. But in any  
14 rate, we're -- the main existing relationship is going to be a  
15 supplier -- Stream TV Networks to be a supplier to Rembrandt  
16 and Rembrandt to have supplied technology in the form of a  
17 license to Stream.

18 Q I apologize if you've already mentioned this, but how long  
19 has Stream TV had the license with Rembrandt?

20 A That was actually the subject of the 2017 litigation. It  
21 involved a contract that purported to give a license to them  
22 and in return, it was to give certain monetary and ownership  
23 rights to Rembrandt. As opposed to litigating that to  
24 fruition, we reached the settlement agreement in 2021. So  
25 arguably, the rights existed from 2010 forward. And in fact,

1 that was the result. I mean, as part of the settlement is --  
2 and they exist today subject to performance under the  
3 agreement.

4 Q Thank you. What about the other Debtor in this matter?  
5 Are you familiar with Technovative Media, Inc.?

6 A Yes.

7 Q What do you know about Technovative's business?

8 A Our understanding is that Technovative is a subsidiary to  
9 Stream and is a holding company that controls various other  
10 subsidiaries that are actively attempting to use Rembrandt's  
11 technology without paying a license fee, without agreeing to  
12 the other terms of the agreement. So that is our -- I mean,  
13 we -- our understanding is that it's Technovative that controls  
14 those entities.

15 Q And we'll come back to that. In the meantime, does  
16 Rembrandt have a business relationship with Technovative?

17 A No, other than -- depending on how you define business  
18 relationship. Our license agreement is with Stream, the top --  
19 our understanding is the top entity. That's not an accident.  
20 That was a purposeful -- they were purposely added as the  
21 defendant in the litigation and the party with which we were  
22 contracting with to resolve the agreement and the settlement.

23 Q Does Technovative have any right to use Rembrandt's IP  
24 under the license agreement?

25 A Only if they're supplying product to Stream.



1 Q Are you familiar with SeeCubic, Inc., which sometimes in  
2 this proceeding has been referred to as SeeCubic of Delaware?

3 A Yes.

4 Q What do you know about SeeCubic, Inc.?

5 A Our understanding is that SeeCubic, Inc., is actively  
6 trying to use and is using Rembrandt technology and trying to  
7 provide content for no glasses 3D using Rembrandt tools and  
8 providing and offering to sell no glasses 3D TVs. They have --  
9 we have provid -- and we have pursued litigation to enjoin them  
10 from doing so. The -- that is, I mean, I can keep going on,  
11 but that's the general gist of what I understand at this point.

12 Q And we'll speak about that, but what is your understanding  
13 as to whether or not SeeCubic, Inc. is a competitor of Stream  
14 TV?

15 A I think they're about as competitive as an entity can be.  
16 They're actively on their website and in their PPM saying  
17 they're taking over the technology of Stream TV. They're  
18 working with employees that worked back in the day with 3D  
19 Fusion, the predecessor to Rembrandt. They're trying to market  
20 all of the same products and services as Stream. So they're a  
21 competitor.

22 Q Does Rembrandt have a business relationship with SeeCubic,  
23 Inc.?

24 A No.

25 Q Has Rembrandt ever had a business relationship with

1 SeeCubic, Inc.?

2 A No.

3 Q Does SeeCubic, Inc. have any right to use Rembrandt's IP  
4 under the license agreement with Stream TV?

5 A No.

6 Q Are you familiar with an entity that's been referred to on  
7 these proceedings as SCBV, SeeCubic BV?

8 A Yes.

9 Q What do you know about --

10 A Yes.

11 Q What -- I'm sorry to interrupt you. What do you know  
12 about SeeCubic BV?

13 A It is our understanding that SeeCubic BV is a Netherlands  
14 corporation that employs a number of people that used to work  
15 for 3D Fusion Rembrandt and then it was controlled by Stream  
16 through Technovative to design and develop various tools for 3D  
17 content creation and the hardware for a no glasses, 3D TV.  
18 They actively have access to Rembrandt's trade secrets and are  
19 actively using technology covered in Rembrandt patents in  
20 creation of various prototypes and products for Stream and --  
21 well now, SeeCubic of Delaware.

22 Q Is SCBV using Rembrandt's IP with Rembrandt's blessing?

23 A Only if they're creating product for Stream. In that  
24 configuration, we license Stream and they're free to have  
25 product made for itself and provide products to the world.

1 They are not free, SCBV is not free to provide that to any  
2 other entity, not Technovative and not even -- and certainly  
3 not SeeCubic of Delaware.

4 Q I take it, Rembrandt does not have a business relationship  
5 with SCBV. Is that correct?

6 A That is correct, other than as a -- that is a -- we have a  
7 relationship with Stream, but not with SCBV directly.

8 Q Has Rembrandt ever had a direct business relationship with  
9 SCBV?

10 A No.

11 Q Does SCBV have any right to use Rembrandt's IP under the  
12 license agreement?

13 A Only to make product and provide services through Stream.  
14 So no, not -- they can't provide anything to any other party  
15 outside of our licensing.

16 Q Do you know Mr. Shadron Stastney?

17 A Yes.

18 Q When did you first meet Mr. Stastney?

19 A I believe the first time we met or spoke, for that matter,  
20 was during the mediation process in the Southern District of  
21 New York litigation between Rembrandt and Stream.

22 Q You listened to the testimony that Mr. Stastney provided  
23 in connection with a TRO proceeding back on October 6th 2023.  
24 Is that correct?

25 A Yes, I did.

1 Q Did you note any inaccuracies in Mr. Stastney's testimony?

2 A I did.

3 Q We'll come back to that. Now, Rembrandt filed a brief in  
4 support of the Debtor's motion for a temporary restraining  
5 order. Correct?

6 A Yes.

7 Q Why does Rembrandt support the Debtor's TRO motion?

8 A For a variety of reasons, but it really goes back to the  
9 the core of Rembrandt's interests. The -- specifically, we're  
10 looking to protect our intellectual property and to see it  
11 commercialized effectively. We have licensed Stream. Stream,  
12 continuing to do business in the no-glasses 3D space, is in our  
13 interest. That means they can pay us. That means that Stream  
14 can provide us the products we're looking to sell to other  
15 customers, which quite frankly, is where we will make far more  
16 revenue than from the licensees. So we are very interested in  
17 not seeing the technology leak into the marketplace. We do not  
18 want to see our tools and techniques, and the things that we  
19 have developed, and the trade secrets go to particular  
20 jurisdictions in, specifically, China. India would be, of  
21 course, concern to us. So we're interested in seeing that  
22 technology protected.

23 Q Are you familiar with SeeCubic Inc.'s business model?

24 A I am familiar with their business model and the private  
25 placement memo they've published.

1 Q The private placement memorandum, that's also referred to  
2 as a PPM, correct?

3 A Yes.

4 Q Are you familiar with the 2020 SeeCubic PPM that's been  
5 submitted and marked, and introduced as an exhibit in this  
6 case?

7 A Yes.

8 MR. KODOSKY: Your Honor, I am going to ask the  
9 witness to take a look at what has been previously introduced  
10 as Debtor's Exhibit Number 6. If I may, I've got a copy for  
11 the Court in this binder that I can pass out.

12 THE COURT: Okay. Is it -- right. Well, let's start  
13 -- I know I thought the parties had no objection to me looking  
14 at documents prior -- but this has been admitted into evidence  
15 already. All right. And is it in another binder, or you just  
16 put this together for my ease?

17 MR. KODOSKY: For your ease.

18 THE COURT: All right. Let's -- anybody object to me  
19 looking at it in that binder?

20 MR. COLBY: No, Your Honor.

21 THE COURT: All right. Great. So I don't have to go  
22 searching through binders. Great. Okay.

23 MR. KODOSKY: And the witness, I've -- in preparation  
24 for today, I had sent the witness a copy of --

25 THE COURT: He doesn't need to pull any documents.

1 That's why I asked him what did he have in front of him. Don't  
2 take out anything.

3 Jon, how are we going to do this? Can we pull it up?

4 MR. EDEL: Is it the complaint?

5 MR. KODOSKY: It's Exhibit Number 6. It is --

6 THE COURT: SeeCubic, Inc. It was admitted in  
7 Debtor's Cases 6?

8 MR. KODOSKY: I believe so, Your Honor.

9 THE COURT: In this proceeding?

10 MR. KODOSKY: Yes, Your Honor. And I've got a second  
11 copy if --

12 THE COURT: Well, we have to have him look at it.  
13 How's he going to -- had anybody through that through? Because  
14 typically, when we have a Zoom hearing, we pull up the document  
15 on the screen so that the witness can see it. That means you  
16 don't need to see me. I don't care. Can we take me off and  
17 can we add another --

18 MR. EDEL: I just don't have it. Do you have a --

19 MR. KODOSKY: I can email it to you.

20 THE COURT: Yes.

21 MR. KODOSKY: I've got a PDF that I can --

22 MR. EDEL: Yeah.

23 THE COURT: Yes. Would you? Oh, I thought -- yes,  
24 no one -- PDF document. Send it to you, Jon?

25 MR. EDEL: Not from this side. We've --

1 THE COURT: Okay. Counsel, can you send all of the  
2 documents that you intend to have this witness testify  
3 regarding? Because the only way -- we want to make sure that  
4 we are in control of the documents and that we're all looking  
5 at the same documents, and that there's nothing different.

6 Yes, Jon?

7 MR. KODOSKY: I'm happy to, Your Honor.

8 THE COURT: Doing --

9 MR. KODOSKY: I would just ask for your email  
10 address --

11 MR. EDEL: Share them and then --

12 MR. KODOSKY: -- and I will send those to you.

13 THE COURT: Wait, what did you say? Hold on. Hold  
14 on.

15 MR. EDEL: I'm just wondering if it's easier for them  
16 to share on their end.

17 THE COURT: Is it on your -- can you share it?

18 MR. EDEL: But that might complicate things.

19 THE COURT: That's going to complicate, okay. Here's  
20 what we're going to do. I'm going to take a few minutes so  
21 that you can email the documents to Jon, and then we'll have  
22 all of them. And when I say a few minutes, I'm not even moving  
23 from here. We're just going to be in recess for a few minutes  
24 so that we can deal with the technical issues, okay? So we're  
25 off the record for now.

1 (Record taken)

2 THE COURT: All right. You may proceed, Mr. Kodosky.

3 MR. KODOSKY: Thank you, Your Honor.

4 BY MR. KODOSKY:

5 Q Mr. Michaels, are you able to see on your screen Debtor's  
6 Exhibit Number 6?

7 A Yes. Yes, I am.

8 Q Do you recognize this to be the SeeCubic 2020 PPM that you  
9 had referenced before we just took this short break?

10 A Yes, I do.

11 Q If we can please take a look at page 13 of 34. And  
12 specifically, what I'd like to direct your attention to, Mr.  
13 Michaels, is the part of this page that begins, "Business  
14 Model" in bold. If you can see that paragraph, and take a  
15 moment to review it, please.

16 A Yes, I've reviewed it.

17 THE COURT: Wait a minute. Counsel, where are we at?

18 MR. KODOSKY: On page 13 of 34, which is page -- I'm  
19 sorry. Jon, if you can scroll to the bottom of the page to see  
20 what the page number is of this. It says 4 at the bottom, but  
21 it's page 13 of 34, so --

22 THE COURT: Well, how about we use the number,  
23 because this also has been -- was this file of record?  
24 Apparently. All right. Page 4, business model. All right.  
25 Page 4. I don't know whether it's 13 or -- well, for my



1 reference, page 4. Okay.

2 BY MR. KODOSKY:

3 Q Mr. Michaels, if you could take a moment to review the  
4 business model description from the SeeCubic 2020 PPM, and  
5 please let us know when you've finished reviewing that.

6 A I have finished reviewing it.

7 Q Had you seen this PPM and this business model description  
8 before today?

9 A Yes, I have.

10 Q And is this the provision that, at least partly, informs  
11 your understanding of the SeeCubic, Inc. business model?

12 A Yes, it is.

13 Q Thank you.

14 MR. KODOSKY: If we can please show the witness  
15 Debtor's Exhibit Number 5. Previously introduced, which is the  
16 -- well, I'll hold off.

17 BY MR. KODOSKY:

18 Q Do you recognize this to be the SeeCubic 2022 PPM that you  
19 had referenced earlier?

20 A Yes, I do.

21 THE COURT: Which year?

22 MR. KODOSKY: 2022. Jon, I'd like to begin by  
23 directing the witness to page 10 of 29.

24 THE COURT: And that is Exhibit -- what, again?  
25 Five?

1 MR. KODOSKY: Yes, Your Honor.

2 THE COURT: Exhibit 5. And that is page 10 down at  
3 the bottom or -- because I have PPM 9 and then -- yes, okay.

4 BY MR. KODOSKY:

5 Q You see, Mr. Philips (sic), the section that begins in  
6 bold, "The Company"?

7 A Yes, I do.

8 Q Where it states, "The company was founded in 2020 by the  
9 secured creditors of Stream TV Networks, Inc. to acquire  
10 substantially all of the assets of Stream TV, including all  
11 subsidiaries and all the technology assets." And it goes on to  
12 state that, "The company's technology, when licensed to a  
13 consumer device manufacturing partner, and incorporated as a  
14 component of any panel device" -- and it lists, "-- television,  
15 monitor, phone, etcetera, displays content in glasses-free 3D."  
16 Do you see that?

17 A I do.

18 Q Is that consistent with your understanding of SeeCubic's  
19 business model, where they license, or intend to license the  
20 technology?

21 A Yes, it is.

22 MR. KODOSKY: If we could please take a look at page  
23 28, please.

24 THE WITNESS: Are you waiting on me? I can see page  
25 28, if that's the question.

1 MR. KODOSKY: I'm sorry. I am --

2 THE COURT: Wait, 28? That's a different -- Jon, are  
3 we on 28?

4 MR. EDEL: I'm on 28 of 29 on the file, but we want  
5 the page, actual page 28?

6 THE COURT: At the bottom.

7 MR. KODOSKY: Yes. The page 28. It would be 26 of  
8 29. I'm sorry, Jon.

9 MR. EDEL: Gotcha, yup.

10 THE COURT: I mean, I just looked down at the bottom.  
11 Okay.

12 BY MR. KODOSKY:

13 Q Mr. Michaels, could you please read into the record the  
14 third paragraph there and the certain important transactions  
15 section that begins, "The company also". Do you see that?

16 A "The company also maintains licensing arrangements for  
17 various technologies and products with a variety of  
18 manufacturers. Each agreement requires payment per product  
19 sold or for use of technology, or -- as applicable."

20 Q How do you interpret this provision?

21 A I believe --

22 MR. COLBY: Objection.

23 THE WITNESS: -- it is my understanding upon reading  
24 it that it --

25 THE COURT: Objection. Objection. Basis?

1 THE WITNESS: Sorry, I didn't hear the objection.

2 MR. COLBY: Yeah. Objection, Your Honor. Relevance.  
3 The witness testified he has no -- or Rembrandt has no business  
4 relationship with SeeCubic, Inc. He's reading out of a  
5 document that he didn't prepare, and has testified merely that  
6 he saw it. So I don't know exactly where this is going. I'm  
7 trying to give Mr. Kodosky some rope, but I don't see the  
8 relevance of Mr. Michaels testifying about what this document  
9 means.

10 THE COURT: Counsel, response? His objection is on  
11 relevance.

12 MR. KODOSKY: Mr. Michaels has already stated that he  
13 is familiar with SeeCubic's business model based on these PPM  
14 materials, that he has a problem with the business model, and  
15 my next question is going to be what problem, if any, he has  
16 with the business model and why --

17 THE COURT: Okay.

18 MR. KODOSKY: -- it resulted in litigation.

19 THE COURT: All right. Mr. Colby, withdrawing your  
20 objection?

21 MR. COLBY: I would withdraw for that --

22 THE COURT: All right.

23 MR. COLBY: -- forthcoming question, Your Honor.

24 THE COURT: All right. Keep going.

25 BY MR. KODOSKY:

1 Q Mr. Michaels, what problem, if any, do you have with the  
2 business model, SeeCubic, Inc. business model description, that  
3 you've looked at in these PPM materials?

4 A The company's business model, as stated, requires a  
5 license from Rembrandt, and I read the two sentences in this  
6 third paragraph as stating that they have a license from  
7 Rembrandt and Philips. Specifically, the per product sold is  
8 the format of the Philips license, and the for use of the  
9 technology is the format of the Rembrandt license to Stream,  
10 and that I personally negotiated with Shad & Stastney, who  
11 likely wrote this. So my understanding is the company is  
12 falsely claiming that it has the licenses it needs when it does  
13 not.

14 Q In other words, SeeCubic does not own any of the  
15 technology as attempting to license the others, correct?

16 A To my knowledge, they don't own any of it. You're right,  
17 but if it's .001 percent, that isn't -- they don't own the  
18 technology they're referencing here, and it's necessary to  
19 provide hardware, software, or content creation that was  
20 developed by Philips 3D Fusion, Rembrandt, and then Stream TV  
21 Networks. So --

22 Q Is it accurate to state that all business between  
23 SeeCubic, Inc. and SCBV was blocked at least through September  
24 20th, 2023, when Mr. Stastney was appointed as director of  
25 SCBV?

1 MR. COLBY: Objection.

2 THE WITNESS: I'm sorry. I didn't follow --

3 THE COURT: I didn't follow either.

4 THE WITNESS: -- that question.

5 THE COURT: So, restate the question. Before you  
6 object, Mr. Colby, he's going to restate it, because I didn't  
7 understand it either. Not that I'm the witness, but I'm trying  
8 to follow. What was your question, Mr. Kodosky?

9 BY MR. KODOSKY:

10 Q Was all business between SeeCubic and SCBV blocked,  
11 B-L-O-C-K-E-D, at least through September 20th of '23 when Mr.  
12 Stastney was appointed as director of SCBV?

13 A I think I --

14 MR. COLBY: Objection.

15 THE WITNESS: -- understand your --

16 THE COURT: Okay, wait a minute. He's objecting.

17 MR. COLBY: Well, the witness has no firsthand  
18 knowledge. I don't understand the basis, how he could be  
19 testifying as to a relationship or not between two companies of  
20 which he's not a part, and testified as to one of them he has  
21 no business relationship.

22 THE COURT: Okay. Counsel?

23 MR. KODOSKY: He does have firsthand knowledge, Your  
24 Honor. He's already described what rights SCBV and SeeCubic,  
25 Inc. have to use the Rembrandt IP that's been licensed to

1 Stream TV.

2 MR. COLBY: That has to do, Your Honor, with, I  
3 guess, Stream TV's ability to use Rembrandt technology. The  
4 question was whether or not all business was blocked between  
5 SeeCubic, Inc. and SeeCubic BV. That has nothing to do with  
6 Rembrandt's --

7 THE COURT: Well, I guess he can rephrase this thing.  
8 Rephrase the question. I understand what he's asking. He's  
9 just not stating it --

10 MR. COLBY: Okay.

11 THE COURT: -- succinctly.

12 MR. COLBY: Then --

13 THE COURT: Rephrase the question.

14 BY MR. KODOSKY:

15 Q To your knowledge, Mr. Michaels, does SeeCubic intend to  
16 have SCBV supply SeeCubic's customers with Ultra D products and  
17 services?

18 MR. COLBY: Objection, Your Honor.

19 THE WITNESS: That is my understanding.

20 THE COURT: Wait. He objected.

21 MR. COLBY: I don't know --

22 THE WITNESS: Okay.

23 MR. COLBY: -- Mr. Michaels can testify firsthand  
24 knowledge about what SeeCubic, Inc. intends to do. He read it  
25 out of this document, but so can all of us. That's not

1 firsthand knowledge. He can testify about what the document  
2 says, I guess, but not as to SeeCubic's intent.

3 MR. KODOSKY: Rembrandt has sued both entities, Your  
4 Honor, for exactly this purpose.

5 THE COURT: Okay. So I guess based on -- you can  
6 ask --

7 MR. COLBY: I know that bringing a lawsuit gives you  
8 firsthand knowledge about it, but he can testify why he's --

9 THE COURT: Counsel, I mean, just rephrase it.

10 BY MR. KODOSKY:

11 Q Do Ultra D products require a license to the Rembrandt  
12 intellectual property to be made, used, sold, offered for sale,  
13 exported or imported, Mr. Michaels?

14 A Yes.

15 Q Do Ultra D products require a license to the Philips  
16 intellectual property to be made, used, sold, offered for sale,  
17 exported or important?

18 A Yes.

19 Q Do Ultra D products require a license to the Stream TV  
20 intellectual property to be made, used, sold, offered for sale,  
21 exported or imported?

22 A Yes.

23 Q Do Ultra D products require a license to the Ultra D  
24 Cooperatief U.A. intellectual property to be made, used, sold,  
25 offered for sale, exported or imported?



1 A Yes.

2 THE COURT: Who? Ultra D Cooperatief?

3 MR. KODOSKY: U.A. Yes, Your Honor.

4 BY MR. KODOSKY:

5 Q Does SeeCubic, Inc. have a license from Rembrandt?

6 A No.

7 Q Does SeeCubic, Inc. have a license from Philips?

8 A No.

9 Q Does SeeCubic, Inc. have a license from Stream?

10 A No.

11 Q Does SeeCubic, Inc. have a license from Ultra D

12 Cooperatief U.A.?

13 A No.

14 Q Does SCBV have a license from Rembrandt?

15 A No.

16 Q Does SCBV have a license from Philips?

17 A No.

18 Q Does SCBV have a license from Stream?

19 A No.

20 Q Does SCBV have a license from Ultra D Cooperatief U.A.?

21 A No.

22 Q Prior to Mr. Stastney being appointed director of the  
23 Netherland subsidiaries of Stream TV, what ability to SeeCubic,  
24 Inc. have to do business with SCBV, absent the licenses, in  
25 your view?

1 MR. COLBY: Objection, Your Honor.

2 THE COURT: Basis?

3 MR. COLBY: Same basis. And Mr. Michaels, I suppose,  
4 can testify about what various parties may or may not be able  
5 to do under the Rembrandt license, but other licenses between  
6 Philips or these other entities that he's not a part of, I  
7 don't think he has firsthand knowledge.

8 THE COURT: We already answered on that one.

9 MR. COLBY: Well --

10 THE COURT: This is the new question. I mean, you  
11 objected and he already testified that he didn't have a  
12 license. SeeCubic didn't have a license with any of the above,  
13 Philips, Rembrandt, Stream, Ultra D, and SCBV, Inc. did not  
14 have a license from any of the above, from my own short hands.  
15 And then he went on to another question. So you didn't object  
16 to those. I kind of think it's too late to object to his  
17 answer, to those he's already answered. Now, there was a new  
18 question that you then objected to. Now, the new question,  
19 you're objecting on the basis that he doesn't have firsthand  
20 knowledge with respect to that particular question?

21 MR. COLBY: Correct, Your Honor.

22 THE COURT: All right. Counsel, response?

23 MR. KODOSKY: He has already answered that --

24 THE COURT: Well, that, but this is a new question.

25 The new question was -- and I forgot what it was. What was the

1 new question that you were objecting to -- that Mr. Colby was  
2 objecting to?

3 MR. KODOSKY: And I'm able to limit it -- maybe this  
4 will address his objection to the Rembrandt. Without having a  
5 license from Rembrandt --

6 THE COURT: Okay.

7 MR. KODOSKY: -- what ability to SeeCubic, Inc. have  
8 to do business with SeeCubic BV absent the Rembrandt license?  
9 It's actually the question I asked him earlier about being  
10 blocked until Mr. Stastney became a director.

11 THE COURT: All right. Let's -- I mean, you're  
12 trying to rephrase it. I get he objected and he's trying to  
13 address that. So the question now is what, Mr. Kodosky?

14 BY MR. KODOSKY:

15 Q Prior to September 20th, 2023, when Mr. Stastney was  
16 appointed a director, was SeeCubic, Inc. blocked in their  
17 contract with SCBV?

18 A Yes, for the sale of a no-glasses 3D product. I mean,  
19 they could sell pencils back and forth, but for the relevant  
20 technology, they needed a license from all the entities you  
21 mentioned.

22 Q And it's --

23 MR. COLBY: Your Honor, I wasn't quite quick enough.  
24 That was the same objectionable question as before. Again, if  
25 Mr. Kodosky wants to ask about the implications of a Rembrandt

1 license or not having a Rembrandt license, I think that's  
2 appropriate, but asking whether or not the -- you know, such a  
3 broad question -- Mr. Michaels doesn't have sufficient  
4 firsthand knowledge to answer that.

5 THE COURT: Okay.

6 MR. COLBY: And I thought --

7 THE COURT: What?

8 MR. COLBY: I thought we'd agree to limit it to  
9 Rembrandt, but then the question was --

10 THE COURT: Right. It was -- okay. So the objection  
11 is that Mr. Michaels does not have firsthand knowledge  
12 regarding the relationship between SeeCubic, Inc. and SCBV with  
13 respect to, I guess, an agreement between those parties to sell  
14 the technology or use the technology?

15 That was the objection, Mr. Colby?

16 MR. COLBY: Yes, Your Honor. It's Mr. Michaels would  
17 seem to have a basis to testify about the implications of the  
18 Rembrandt license, but not quite so broadly about the  
19 relationship between the -- I'm trying to be economical in my  
20 objections here, Your Honor, but at the same time, I would like  
21 to keep us focused on things about which the witness has  
22 firsthand knowledge.

23 THE COURT: All right.

24 MR. COLBY: And I think if the question were asked  
25 about the implications of the Rembrandt licenses that were

1 properly sold is --

2 MR. KODOSKY: These relate on each other, Your Honor,  
3 to the extent that you need the Rembrandt license and the  
4 Stream license to be able to do business. He does have  
5 firsthand knowledge regarding the Rembrandt license. He's  
6 already testified to that, and I believe he's also -- I'm going  
7 to be asking him what action Rembrandt took when it learned  
8 that an independent director had been appointed and --

9 THE COURT: So your response is that he has firsthand  
10 knowledge because Rembrandt didn't have a license with SeeCubic  
11 or SCBV, that prior to that, it wasn't authorized to use the  
12 license?

13 MR. KODOSKY: Before Mr. Stastney --

14 THE COURT: Just prior to that. That's all you've  
15 got to -- okay. Did you -- the question is, and I think the  
16 question is, that prior to 9/20/23, did SCBV or SeeCubic have a  
17 license from Rembrandt or Stream to use the technology? Is  
18 that the question?

19 MR. KODOSKY: The technology is the Ultra-D. And  
20 it's --

21 THE COURT: The -- use Ultra-D technology.

22 MR. KODOSKY: And it's made up of licenses from  
23 Rembrandt.

24 THE COURT: I get that.

25 MR. KODOSKY: From Philips.

1 THE COURT: But is that what -- so you're just  
2 saying --

3 MR. KODOSKY: Stream.

4 THE COURT: -- prior to that they didn't have  
5 authority, or they weren't using it? What's the question?  
6 What was the -- what existed prior to 9/2023 that you're asking  
7 him about?

8 MR. COLBY: Right. And my objection is to Mr.  
9 Michaels testifying as to things beyond the Rembrandt  
10 technology.

11 THE COURT: Okay.

12 MR. COLBY: So if the question were to be limited to  
13 the Rembrandt technology licenses or lack of licenses. I have  
14 no --

15 THE COURT: Well, and what --

16 MR. COLBY: -- objection.

17 THE COURT: -- about his knowledge with respect to  
18 the Stream license to those -- because he already testified  
19 that he knew that they didn't have a license from Stream or --  
20 from Stream. He already testified that he knew that.

21 MR. COLBY: Yeah. If he has firsthand knowledge of a  
22 license from Stream, that's fine. I don't think Mr. Michaels  
23 has any firsthand knowledge of any relationship between, for  
24 example, Philips and SCBV or SeeCubic, Inc., or as between  
25 Ultra-D and SCBV. So I think if we --

1 THE COURT: Well, he's already testified regarding  
2 that.

3 MR. COLBY: He --

4 THE COURT: And said it.

5 MR. COLBY: You're right. He testified what did and  
6 didn't exist. He didn't actually give his basis for firsthand  
7 knowledge as -- again, I'm trying to be economical in my  
8 objection.

9 THE COURT: Well, counsel, you didn't object at the  
10 time. I'm just saying. Like, all right. We're not going to  
11 get bogged down. I mean, I already heard what I -- I mean,  
12 this isn't a jury here. Can you just rephrase the question?  
13 Otherwise, I'm going to sustain his objection.

14 BY MR. KODOSKY:

15 Q As a director of the Netherland subs --

16 A Uh-huh.

17 Q -- is not -- is Mr. Stastney attempting to use color of  
18 law or act under a color of law to disrupt the arrangement, Mr.  
19 Michaels?

20 A Yes.

21 MR. COLBY: Objection.

22 THE COURT: All right. Objection -- all right. I  
23 knew you were going to object. Basis for objection, counsel?

24 MR. COLBY: If the witness has firsthand knowledge of  
25 some actions, he can testify as to those. But I don't think

1 that's been established. I don't understand --

2 THE COURT: Right.

3 MR. COLBY: -- I thought we were talking about the  
4 implications of the Rembrandt license, who has it and who  
5 doesn't.

6 THE COURT: Well, I think -- I get what he's trying  
7 to -- but you have to lay a foundation. You have to tell me  
8 how he knows all of this stuff. I'm going to sustain. But you  
9 need to lay a foundation.

10 BY MR. KODOSKY:

11 Q All right. Mr. Michaels, when did you learn, or did you  
12 learn that SC -- or that SeeCubic, Inc. was attempting to  
13 utilize SCBV inappropriately without having a license from  
14 Rembrandt?

15 A Yes, we learned it from Shadron Stastney's testimony in  
16 the bankruptcy and in this hearing.

17 Q What action did Rembrandt take upon learning that  
18 information?

19 A It took a variety of actions, not the least of which was  
20 to request more information about what the actual activities  
21 were. That resulted in us getting copies of the 2022 PPM that  
22 we have on -- on the screen. And it expressly states that  
23 they're trying to license out our technology. Even claiming to  
24 have a license to do so. So that -- that's -- and to our  
25 knowledge, that has not happened yet, even though they are



1 expressly stating they intend to do so. And that's with him as  
2 director of that entity, we are very concerned that they will  
3 actively start transferring information and technology out to  
4 parties that are unlicensed.

5 Q Let me ask you a different way, Mr. Michaels. Before Mr.  
6 Stastney was appointed director on September 20th of 2023, who  
7 had the authority to your knowledge to make that decision?

8 A Stream TV and specifically Matthu -- Matthu Rajan.

9 Q And at some point, did you become aware that SeeCubic,  
10 Inc. and Mr. Stastney were attempting to have remove Mr. Rajan  
11 removed as director of the Netherlands subsidiaries?

12 A Yes.

13 Q Did you at some point become aware of who replaced Mr.  
14 Rajan as the director of the Netherlands subsidiaries?

15 A It is our understanding that there was first -- Ian Liston  
16 (phonetic) who was -- I think is his name, was -- was added as  
17 a receiver and then dismissed when the bankruptcy was filed.  
18 And later an attorney from Jones Day was appointed by the  
19 Netherlands Court as a -- as an -- the independent director.

20 Q And that's the gentlemen, his name -- do you recall his  
21 name? Jasper?

22 A That sounds familiar. I wrote him an email. I'd -- I'd  
23 easily be refreshed -- my recollection would be refreshed by  
24 that email. But I don't recall his name exactly.

25 Q So is it fair to say that there was a period of time after

1 Mr. Rajan was removed and before Mr. Stastney was appointed  
2 that there was a "independent or neutral director" making that  
3 decision?

4 A Yes.

5 Q And upon learning that an independent director had been  
6 appointed, what action did Rembrandt take to express his view  
7 on whether or not the technology could be used?

8 A I sent the independent director an email outlining our  
9 position, importantly referencing the publicly available  
10 documents that went into those rights further, and specifically  
11 requested that we setup a meeting or a phone call with US IP  
12 Practitioners to review the situation.

13 Q And what response did you receive from the independent  
14 director?

15 A The -- we received a response that -- that he had talked  
16 to various people we have -- for many years accused of taking  
17 our trade secrets and that we had heavily documented the  
18 exchange of trade secrets with specifically Dr. Barenbrug  
19 (phonetic) and had told him that they weren't using our trade  
20 secrets. And that was sufficient for him, and we responded  
21 then.

22 Q What was your response?

23 MR. COLBY: Objection, Your Honor.

24 THE COURT: Wait, wait, wait. Okay. Objection,  
25 Mister --

1 MR. COLBY: Witness is testifying as to hearsay.  
2 What somebody else told him out of court.

3 THE COURT: Okay.

4 Counsel?

5 MR. KODOSKY: Your Honor, first of all, it's not  
6 being offered for the truth of the matter being asserted, and  
7 I'd also like to provide the Court with a cite that hearsay at  
8 the preliminary injunction stage, the Court does -- the Court  
9 may rely on affidavits and hearsay materials, which would not  
10 be admissible evidence. It is the --

11 THE COURT: What case is that?

12 MR. KODOSKY: *Kos Pharms*, K-O-S, Pharms --

13 THE COURT: All right.

14 MR. KODOSKY: -- P-H-A-R-M-S.

15 THE COURT: K-O-S.

16 MR. KODOSKY: I'm sorry?

17 THE COURT: K-O-S.

18 MR. KODOSKY: K-O-S space Pharms, P-H-A-R-M-S.

19 THE COURT: Oh Kos pharms. Okay.

20 MR. KODOSKY: 369 F.3d at 718. And that cite is  
21 actually referenced in a Western District of Pennsylvania, June  
22 9th, 2022, case opinion, styled *Not an LLC v. Bureau of*  
23 *Alcohol*, Civil Action number 2:22-CV-747.

24 THE COURT: And what's the circuit for the *Kos*  
25 *Pharms*?

1 MR. KODOSKY: Third Circuit, Your Honor.

2 THE COURT: What year?

3 MR. KODOSKY: I want to say that it's from 2001. But  
4 if I can maybe get back to you over break?

5 THE COURT: Okay. So *Kos Pharms* cited in a case  
6 called *Not an LLC* v. who?

7 MR. KODOSKY: *Bureau of Alcohol*, from the Western  
8 District of Pennsylvania, June 9th, 2022.

9 THE COURT: Okay.

10 BY MR. KODOSKY:

11 Q What response --

12 THE COURT: Wait a minute, wait a minute.

13 MR. KODOSKY: Oh, sorry.

14 THE COURT: I've got to rule. I've got to rule,  
15 counsel. You said that at a hearing on a preliminary  
16 injunction, the Court can consider hearsay matters. You also  
17 believe it's not hearsay because it's not being offered for the  
18 truth of the matter, correct?

19 MR. KODOSKY: Correct.

20 THE COURT: What is it being offered for?

21 MR. KODOSKY: I'd have to --

22 THE COURT: I mean --

23 MR. COLBY: I don't feel terribly strong about this  
24 objection.

25 THE COURT: Right.

1 MR. COLBY: I think the testimony on balance was  
2 actually helpful to us.

3 THE COURT: Right. I mean --

4 MR. COLBY: But I would like to --

5 THE COURT: -- he spoke to someone whose --

6 MR. COLBY: Yeah.

7 THE COURT: -- his understanding in the response from  
8 the independent director was that -- responded that he didn't  
9 believe that they were using their technology.

10 MR. COLBY: Right. We'll take a look at the cases.  
11 I do think, you know, those have not necessarily --

12 THE COURT: Other --

13 MR. COLBY: Hearsay free for all are not the rules  
14 we've been living under to date in this hearing.

15 THE COURT: Right. But also, counsel --

16 MR. COLBY: I'd like to keep this focused.

17 THE COURT: -- other than what somebody else told  
18 him, told the independent director. Somebody -- this other  
19 doctor or whatever his name was, he could -- his understanding  
20 of what the response was is sufficient. Was that -- he  
21 responded, his understanding was that they didn't believe they  
22 were using trade secrets.

23 MR. COLBY: Right, right. Yeah.

24 THE COURT: And that could be understanding. He just  
25 couldn't tell me that -- what it says. So we'll strike the

1 portion about Mr. -- the independent director. We don't know  
2 his name. We're not talking about Mr. Liston. We're talking  
3 about the independent director who was a Jones Day attorney?

4 MR. KODOSKY: Jasper Berkenbosch, I believe was his  
5 name, Your Honor.

6 And actually, SCBV is a Defendant in this case. And  
7 so, to the extent that he was serving as an independent  
8 director of one of the Defendants in the case -- party  
9 admission.

10 THE COURT: That's a new one.

11 MR. COLBY: Yes, it --

12 THE COURT: What's your response to that?

13 MR. COLBY: Your Honor, I don't feel terribly  
14 strongly about this because I --

15 THE COURT: Right. Because -- all right.

16 MR. COLBY: -- think the statement was helpful so --

17 THE COURT: So it's a party admission. It's a -- I  
18 was going to strike the portion about who told him what,  
19 because the real bottom line is, he responded, we're not using  
20 your trade secrets. That was his understanding of the response  
21 from Mr. Berkenbosch.

22 MR. COLBY: Correct. I'm fine with that.

23 THE COURT: Okay. All right. So -- and now that you  
24 said it's a statement -- a party admission, because Mr.  
25 Berkenbosch was the independent director of one of the

1 Defendants, it -- I think it can all come in, but okay.

2 So I'll admit it as a party admission and then we'll  
3 move on. It was going to come in anyway, but except for that --

4 MR. KODOSKY: Thank you, Your Honor.

5 THE COURT: -- one limited portion. Go ahead.

6 BY MR. KODOSKY:

7 Q Ultimately, Mr. Michaels, what action did Mr. Berkenbosch  
8 take in response to Rembrandts concerns?

9 A We -- we included the US headquarters of Jones Day, again,  
10 outlining our positions and requesting a meeting. I found it  
11 highly unlikely that a reputable IP firm would conduct the  
12 actions that SCBV and SeeCubic were attempting. And then Mr.  
13 Berkenbosch, the independent director of SCBV resigns -- well,  
14 or sent a letter to the Court asking to resign. And that was  
15 apparently granted.

16 Q And then after he resigned is when Mr. Stastney was  
17 appointed director?

18 A Yes.

19 Q What assurances have you received from Mr. Stastney since  
20 he's been appointed director that he would not act in  
21 contravention of Rembrandts instructions or wishes?

22 A It's my understanding and directly from his mouth, both in  
23 court and our out of court discussions that he fully intends to  
24 license out the technology, including our -- what is Rembrandt  
25 technology and Philips without paying any license fee to

1 Rembrandt or honoring the license in any way.

2 Q And is that one of, if not the primary reason, why  
3 Rembrandt supports the Debtors Motion for a TRO?

4 A Yes, and it's why we've brought a similar action in  
5 Delaware to enjoin SeeCubic from doing the same.

6 Q And that's great timing. The SeeCubic, Inc. filed a  
7 response to the Debtors Motion for a TRO in this matter. It's  
8 a Docket 77 on page 26.

9 THE COURT: Wait a minute. Response. Docket entry  
10 what?

11 MR. KODOSKY: Docket 77. It's the SeeCubic, Inc.

12 THE COURT: In the adversary proceeding or in the  
13 bankruptcy?

14 MR. KODOSKY: in the advisory, Your Honor.

15 THE COURT: Okay.

16 Response. Okay. 77 in adversary. We just want to  
17 keep the record straight, because I doubt hardly it was number  
18 77 in the bankruptcy. We were up to 400 or 500 or something in  
19 the bankruptcy.

20 Okay. So you want us to bring that up?

21 MR. KODOSKY: No, if I can just Mr. Michaels for his  
22 reaction to, in footnote 17 --

23 THE COURT: Well, can we --

24 MR. KODOSKY: -- of SeeCubic, Inc.'s --

25 THE COURT: -- see footnote 17, so we all know what



1 we're talking about?

2 Jon, can you pull that up?

3 MR. KODOSKY: And it should be on page 26, 32 of 39.

4 THE COURT: Page what?

5 MR. KODOSKY: The page number is 26 at the bottom of  
6 the page. But on the top, it's page 32 of 39.

7 THE COURT: On the docket. But in the pleading  
8 itself, it's page 26, correct?

9 MR. KODOSKY: That is correct.

10 THE COURT: All right. And so, you want him to  
11 review footnote 17?

12 MR. KODOSKY: Yes, he had just mentioned about --  
13 that he had filed a TRO against SeeCubic, among other parties,  
14 in the District of Delaware. And footnote 17, this is from --

15 THE COURT: Wait a minute. Let him read it and tell  
16 me what that -- does that relate to his testimony or whatever.

17 BY MR. KODOSKY:

18 Q Please take a moment, Mr. Michaels, and review footnote 17  
19 there on page 26.

20 A Yes, I've read it.

21 Q My question to you was going to be, what is your reaction  
22 to, do you see where it states, "The District of Delaware  
23 applied this reasoning in its denial of the Motion filed in the  
24 summer of 2023 of nonparty Rembrandt 3D Holdings, Ltd. for a  
25 TRO against SeeCubic among parties based on similar

1 allegations." Do you see that?

2 A Yes.

3 Q The Court did not deny Rembrandt 3D Holdings, Ltd. TRO  
4 Motion, correct?

5 A It did not.

6 Q In other words, this statement in the SeeCubic, Inc.  
7 response is inaccurate, correct?

8 A It is with respect to the TRO Motion.

9 Q Is it accurate to state that on August 1st, 2023 -- or I'm  
10 sorry, prior to that, that Rembrandt had withdrew its TRO  
11 Motion?

12 A Yes, after hearing the representations by SeeCubic's  
13 counsel during the bankruptcy hearing with the Court, we  
14 understood that they were going to discontinue their activities  
15 in the Netherlands to have their own director appointed. And  
16 we wrote the Court -- the District Court in Delaware saying  
17 that the basis of our TRO was no longer valid because --  
18 because that -- they were discontinuing that Motion to have a  
19 new director appointed.

20 Q So in other words, Rembrandt withdrew its TRO Motion based  
21 on representations made by Defendants counsel in this court?

22 A Yes, well, in the bankruptcy court. I don't know if this  
23 is the same -- it's a different -- I think it's under a  
24 different docket.

25 Q Understood.

1 A But yes.

2 Q And then not only did they not cease and desist in their  
3 efforts to take over the Netherland subsidiaries, but they  
4 included this misrepresentation in their brief stating that the  
5 District of Delaware denied Rembrandt's TRO, would you agree  
6 with that?

7 A Yes.

8 Q Mr. Micheals, did you ever personally test Stream TV  
9 products to make sure that the content was protected?

10 A Yes, I was in a room full of Rembrandt associated people  
11 evaluating the Stream TV products that they had provided during  
12 the mediation and one that we had purchased prior to bringing  
13 the litigation.

14 Q And what did you find whenever you investigated whether or  
15 not the content was protected?

16 A With respect to content being protected, we actively tried  
17 to get access to the firmware and various tools that were being  
18 used, especially for real time conversion. But also, evaluating  
19 some of the hardware components and we could not access them.

20 We --

21 Q Do you have any personal knowledge as to whether or not  
22 the content is protected now via the actions of the Netherland  
23 subsidiaries?

24 A Only what I've heard testimony in this proceeding. Every  
25 Stream TV product that we have reviewed in the past has been

1 protected. And while we -- we could tell that our technology  
2 was being used by various techniques of providing content and  
3 seeing how it was processed and then processing it through our  
4 tools and it coming out the same, the -- we could tell that it  
5 was being -- that our tools were incorporated. However, we  
6 were not able to see the tools or reverse engineer those tools  
7 from those products.

8 Q Have you personally investigated whether Mr. Stastney  
9 and/or SeeCubic, Inc. have been involved with moving IP assets  
10 owned by Stream TV to SeeCubic, Inc.?

11 A I have investigated that, yes, and I have seen that they  
12 have done -- attempted to do so.

13 MR. KODOSKY: Your Honor, I'd like to show the  
14 witness first Exhibit Number 71.

15 If I can, Kevin, get another binder with 71?

16 Permission to approach, Your Honor?

17 THE COURT: This is another binder?

18 MR. KODOSKY: Yes, Your Honor.

19 THE COURT: And have you sent those documents to  
20 Mister --

21 MR. KODOSKY: Yes, I have -- Your Honor. I have.

22 THE COURT: Okay. All right. All right.

23 Any objection to that being handed up, Mr. Colby?

24 MR. COLBY: No objection to it being handed up.

25 Which document?

1 MR. KODOSKY: The second one.

2 THE COURT: Counsel, just give me a minute. I want  
3 to try to organize my desk here.

4 MR. KODOSKY: No problem, Your Honor.

5 THE COURT: Okay. All right. What am I looking at,  
6 counsel?

7 MR. KODOSKY: I'm sorry, Your Honor?

8 THE COURT: What am I looking at?

9 MR. KODOSKY: Exhibit 71.

10 THE COURT: Okay. Okay. All right. All right.  
11 We brought that up. Go ahead.

12 BY MR. KODOSKY:

13 Q Mr. Michaels, you stated that you personally investigated  
14 whether or not SeeCubic, Inc., and/or Mr. Stastney were  
15 involved with moving Stream Intellectual Property IP assets  
16 from Stream to SeeCubic, Inc. Do you recall testifying to that  
17 just a few moments ago?

18 A Yes.

19 Q What is being shown to you on the screen is what -- a  
20 document that's been marked for identification as Debtors  
21 Exhibit Number 71. Do you recognize this document?

22 A Yes, I do.

23 Q Is this a document that you uncovered as part of the  
24 investigation that you performed?

25 A Yes, it is.

1 Q Could you please describe for us what this document is?

2 A This is an application to register a trademark for  
3 SeeCubic Inc for the mark SeeCubic.

4 Q And what was the date of this -- did you call it an  
5 application?

6 A Yes, I did.

7 Q What is the date of this application?

8 A The application was filed on October 18th, 2023.

9 Q So the application was filed after this TRO was filed?

10 A Yes, it was.

11 MR. KODOSKY: If we can scroll down to the second  
12 page.

13 BY MR. KODOSKY:

14 Q Do you see where it states at the top, first use anywhere  
15 date?

16 A Yes.

17 Q Where it states that SeeCubic -- I'm sorry. Could you  
18 please describe what it states?

19 A So the first use anywhere refers to the first time a mark  
20 has been used in commerce in the sale of goods or sale of  
21 services. And that date is June 1st -- it's purported to be  
22 June 1st, 2020. The first use in commerce actually references  
23 commerce that the federal government can regulate. So it has  
24 to be interstate or international commerce, and they're saying  
25 that at some point it was at least as early as December 8th,

1 2020, that it crossed state lines or international boundaries.

2 Q And you were physically present in this courtroom with us  
3 during the hearing that was held on October 27th, correct?

4 A Yes.

5 Q You drove down from upstate New York to be here?

6 A Yes.

7 Q And do you recall Mr. Rajan being shown website materials  
8 and news articles prior to June 1st of 2020 using the SeeCubic  
9 mark?

10 A Yes, I do.

11 Q And based on that, do you believe that that first use  
12 anywhere date of June 1st, 2020, is accurate?

13 A Well, it's certainly not accurate with respect to SeeCubic  
14 Inc. The first use was by Stream TV and/or SC BV.

15 Q And do you see the webpage URL there of SeeCubic.com?

16 A Yes.

17 Q And the information as to who submitted this application,  
18 do you see that on this second page?

19 A Yes.

20 Q Who was it submitted by?

21 A Shadron Stastney.

22 Q On behalf of SeeCubic Inc?

23 A On behalf of SeeCubic Inc.

24 Q I'd like to direct your attention to page -- the bottom of  
25 page 3, under the section that begins in all bold,

1 "Declaration." Do you see where I'm referring to?

2 A Yes.

3 Q If you could please explain what this section is referring  
4 to.

5 THE COURT: Wait, where are we, counsel?

6 MR. KODOSKY: I'm sorry, Your Honor. Bottom of page  
7 3, top of page 4, the part that states --

8 THE COURT: Oh, declaration.

9 MR. KODOSKY: -- declaration.

10 THE COURT: Okay. Thank you.

11 THE WITNESS: This is -- the declaration filed under  
12 penalty of perjury in our federal system, it's where the  
13 applicant is required to make certain representations with  
14 respect to their belief in their ability to register the mark.  
15 This is a very important aspect of the application. In our  
16 internal training, you know, for our attorneys, we have them  
17 take this very seriously and it can be the basis of  
18 invalidating the mark if registered if any of these provisions  
19 are violated, and this frequently is used to do so. In  
20 addition, the person signing the declaration is risking  
21 prosecution for perjury, and there are times when that's taken  
22 very seriously and in fact enforced.

23 BY MR. KODOSKY:

24 Q It's a potential criminal liability?

25 A Yes.



1 Q And here, the person signing the declaration was who? Mr.  
2 Stastney? Is that accurate?

3 A Yes.

4 Q On page 4, do you see the checkmark in the box in the  
5 section that says, "to the best of the signatory's knowledge  
6 and belief, no other persons except if applicable concurrent  
7 users have the right to use the mark in commerce either in the  
8 identical form or in such near resemblance as to be likely when  
9 used on or in connection with the goods, services of such other  
10 persons, to cause confusion or mistake or to deceive." Do you  
11 see that?

12 A I do.

13 Q Restated, is that Mr. Stastney stating to the best of his  
14 knowledge and belief that, for example, Stream TV does not have  
15 any right to use the word SeeCubic?

16 A That's exactly what it means. And I might add, it's not  
17 just Stream. It would be SeeCubic BV. And he certainly would  
18 know that they did not -- that they might have a reason to  
19 register the mark as well.

20 Q And then the next box with a checkmark there, do you see  
21 where it states, "To the best of the signatory's knowledge --"  
22 And again, signatory would be Mr. Stastney?

23 A Yes.

24 Q "To the best of the signatory's knowledge, information,  
25 and belief, formed after an inquiry reasonable under the

1 circumstances, the allegations and other factual contentions  
2 made above have evidentiary support." Do you see that?

3 A Yes.

4 Q What does that -- what does that mean?

5 A That the -- and in particular with respect to when you're  
6 claiming use, that you're going to be -- you're actually going  
7 to be able to show the sale, a contract for sale, purchase  
8 order, some product or service being exchanged in commerce  
9 that's defined by our various regulations and statutes related  
10 to our trademark issues. And in this case, it would also  
11 reference as to whether or not there was, going up to the prior  
12 paragraph, whether or not some other party had a better right  
13 and had earlier use with respect to the mark. And as director  
14 of SeeCubic BV, he certainly would have known that SeeCubic BV  
15 had many, many years of prior use of this mark as well as  
16 Stream TV using it when he was CFO of Stream TV. That would be  
17 better rights than SeeCubic Inc. I mean, this is -- has to be  
18 knowingly false that he filed it, in these statements.

19 Q And if he is called to testify, it would be fair  
20 questioning in your view for us to ask him what evidentiary  
21 support was being referenced in this box?

22 A Absolutely. In any trademark to speak --

23 MR. COLBY: Objection. Objection.

24 THE COURT: Woah, objection.

25 MR. COLBY: Objection, Your Honor. I think it's for

1 the Court to decide what's fair questioning, not Mr. Michaels.

2 THE COURT: Response? You can rephrase that.

3 Sustained, but you can rephrase.

4 BY MR. KODOSKY:

5 Q Mr. Phillips -- is it fair to ask Mr. Stastney what the  
6 evidentiary support he has?

7 THE COURT: Objection.

8 MR. COLBY: Objection. Yeah, to the extent he's  
9 asking for opinion testimony.

10 THE COURT: For an opinion.

11 MR. COLBY: Yeah.

12 THE COURT: Hasn't been qualified as an expert.

13 MR. COLBY: I also just don't see the point of the  
14 question.

15 THE COURT: Right.

16 MR. COLBY: I mean, he can ask him --

17 THE COURT: He can ask him --

18 MR. COLBY: Right. Ask Mr. Stastney. Go ahead.

19 MR. KODOSKY: We intend to ask.

20 THE COURT: Right. But you don't have to ask him  
21 whether you can ask him. You can ask me if you can ask him.  
22 Move on. I'll sustain the objection.

23 MR. KODOSKY: And -- okay. Thank you, Your Honor.

24 BY MR. KODOSKY:

25 Q The next box that has a checkmark in it, Mr. Michaels, I'm

1 not going to read all of that into the record, but is that  
2 referring to the potential criminal liability and the fines or  
3 imprisonment that you had referred to earlier in making false  
4 statements in an application?

5 A Yes. It refers to 18 USC 1001 specifically. But any  
6 attorney in our office that prepared and filed such an  
7 application like this, it would be grounds for immediate  
8 dismissal. Zero exception. We've never -- I mean, in 40  
9 something years, we've never had anybody that would have filed  
10 something like this, knowing even if they believed it was  
11 untrue, if there was a dispute like there is currently between  
12 two companies, we would have filed a statement with the  
13 application or something to indicate that other uses were  
14 claiming rights to the mark. We would not have just blanketly  
15 said we were entitled to this registration, absent informing  
16 the patent and trademark office of the other party's rights or  
17 claim to rights.

18 Q And right below those boxes with the checkmarks, do you  
19 see the electronic signature of Mr. Shad L. Stastney?

20 A Yes.

21 Q CEO of SeeCubic Inc?

22 A Yes.

23 Q Dated October 18th, 2023?

24 A Yes.

25 Q Which was after the TRO motion was filed and after at

1 least two hearings were held in connection with that motion,  
2 correct?

3 A Yes.

4 MR. KODOSKY: If we can please scroll down to page 6.

5 THE COURT: Hold on one second. Sorry. I'm sorry.  
6 You may continue.

7 MR. KODOSKY: Thank you, Your Honor.

8 BY MR. KODOSKY:

9 Q Directing your attention to page 6 of this document, Mr.  
10 Michaels.

11 A Uh-huh.

12 Q It's being shown on the screen. Do you see that?

13 A Yes, I do.

14 Q Is this the evidentiary support that was submitted by Mr.  
15 Stastney and SeeCubic Inc in support of their declaration?

16 A It is. It's referred to as a specimen showing the mark in  
17 use on their website. And it's -- you're required to file  
18 something showing how the mark is being used in actual  
19 practice.

20 Q And so the evidence that they submitted was the same  
21 website materials that we looked at in the last hearing?

22 MR. COLBY: Objection, Your Honor.

23 THE WITNESS: I don't know if -- I don't recall if we  
24 looked at this in the last hearing, but --

25 THE COURT: All right. Hold on. Hold on, Mr.

1 Michaels, objection. Objection.

2 MR. COLBY: Yeah. The objection is I don't think  
3 that it was established -- it's been established that these are  
4 the same or that Mr. Michaels can -- is in a position to do  
5 that as the same website that was shown by Debtors in the last  
6 hearing.

7 MR. KODOSKY: We can pull up the exhibit from the  
8 last hearing and compare. There's the \$170 million language  
9 that we asked Mr. Rajan about.

10 THE COURT: Wait a minute, wait a minute, we don't  
11 need you to testify, counsel. All you can do is say were you  
12 present at the last hearing? Did you see this exhibit? Is it  
13 the same? Pull it up, unless Mr. Colby's going to say it was,  
14 pull it up. If it is and you want to waste your time, go  
15 ahead. Pull it up. You said it was -- what exhibit was it at  
16 the last hearing? You need some time for that, counsel?

17 MR. KODOSKY: I should be able to get to it pretty  
18 quickly, Your Honor. Exhibit 60 was the SeeCubic website as of  
19 October 27th, 2023.

20 THE COURT: All right. So pull up Exhibit -- do we  
21 have that?

22 MR. KODOSKY: If not, I can email it to --

23 THE COURT: Well, he's going to have to send it to  
24 you so that he can look at it.

25 So while we're doing that, we're going to take a

1 five-minute break. Court is in recess until 12:45. Okay. I  
2 only need five -- actually, I want to give you five minutes.

3 All right. I'll be back at 12:45.

4 (Recess taken)

5 THE BAILIFF: All rise.

6 THE COURT: Please be seated.

7 I took my pen? That is why I do not go back in  
8 chambers. Two emergencies. And I think I left my pen. Let's  
9 hope I have one more.

10 All right, counsel. Before we begin, I think there's  
11 some concern about who's on -- who's observing? That right,  
12 John?

13 THE CLERK: Yeah.

14 THE COURT: All right. Let's just have them identify  
15 themselves, please?

16 THE CLERK: I have someone on here just labelled as  
17 Creditor. Could you identify who you are, please?

18 MR. HAWKINS: Did you want my name?

19 THE CLERK: I'm sorry?

20 MR. HAWKINS: Did you want my name?

21 THE COURT: Yes.

22 THE CLERK: Well, we're trying to figure out who --

23 THE COURT: Creditor.

24 THE CLERK: -- is virtually in the courtroom, yes.

25 MR. HAWKINS: I'm just a creditor. Small creditor.

1 THE COURT: Well, what's -- what's your name, small  
2 creditor? This is the judge.

3 MR. HAWKINS: John.

4 THE COURT: John?

5 MR. HAWKINS: John Hawkins.

6 THE COURT: John Hawkins.

7 MR. HAWKINS: Correct.

8 THE COURT: And okay. Who else?

9 MR. HAWKINS: I'm insignificant, Judge.

10 THE COURT: No, you're not. Everybody in my  
11 courtroom is significant. I wouldn't say that you're  
12 insignificant, sir.

13 MR. HAWKINS: I appreciate that. Thank you.

14 THE COURT: All right. Who else is observing?

15 THE CLERK: So I have a phone number ending in 4843.

16 THE COURT: And who is that?

17 THE CLERK: Again, phone number ending in 4843.

18 THE COURT: Can they hear us?

19 THE CLERK: They should be able to hear us.

20 I'm just going to let you know, we're probably going  
21 to remove you then.

22 MR. BLUMENTHAL: Can you hear me now?

23 THE COURT: Yes. Who are you?

24 MR. BLUMENTHAL: Steven Blumenthal.

25 THE COURT: And your relationship to the case, Mr.



1 Blumenthal?

2 MR. BLUMENTHAL: I'm the CEO of Rembrandt 3D Holding.

3 THE COURT: Okay. Okay. Who else we have, John?

4 THE CLERK: A phone number ending in 9793.

5 THE COURT: Give them a little -- do you know who  
6 that is?

7 MR. COLBY: I don't know the phone number. We do  
8 have two colleagues observing remotely, one whose name you can  
9 see, Rebecca Ritchie and also Becky Gonzalez-Rivas.

10 THE COURT: Yeah. I think we're more like who we  
11 can't identify.

12 MR. COLBY: Yeah, yeah. And Ms. Gonzalez-Rivas is  
13 4843. I just got confirmation.

14 THE CLERK: Oh. What is it? Gonzalez?

15 THE COURT: Okay. That's 4843. Who else we have?  
16 That everybody?

17 THE CLERK: I have someone just named Steven.

18 MR. COLBY: That was Steven Blumenthal who spoke up  
19 earlier, I believe.

20 THE COURT: No there's two people.

21 THE CLERK: Then I'm looking for someone just named  
22 creditor.

23 THE COURT: Wait, I thought that was Mr. Hawkins.  
24 Small -- he said he's a small creditor.

25 THE CLERK: Gotcha.

1 THE COURT: And then we had --

2 THE CLERK: Sorry, Mr. Hawkins.

3 THE COURT: And then we have -- so I have four people  
4 so far. How many unidentified people you have?

5 THE CLERK: A phone number ending in 9793.

6 THE COURT: Hello? Maybe they -- can they -- give  
7 them a time. Maybe they're on mute.

8 THE CLERK: Yeah.

9 THE COURT: Give them a chance to come off mute. Are  
10 they on mute?

11 THE CLERK: Again, it's a 516 number ending in 9793.

12 THE COURT: I feel like we're at bingo. Is that  
13 anybody's colleague? Does anybody recognize this number?

14 MS. BRUMME: Yes, Your Honor, I believe that's Tom  
15 Warns of K&L Gates.

16 THE COURT: Well, can he not respond?

17 MS. BRUMME: He may have stepped away from the Zoom.

18 THE CLERK: It's possible.

19 THE COURT: Is that your colleague, counsel?

20 MS. BRUMME: That's Tom Warns with K&L Gates, Mr.  
21 Caponi's colleague.

22 THE CLERK: That's Tom Warns, okay.

23 THE COURT: Is that your colleague? 716 -- what's  
24 the number?

25 THE CLERK: That was the one ending in 9793.

1 MS. BRUMME: Yeah, he's just messaged me. He's  
2 trying to respond, but we can't hear him.

3 THE COURT: That's fine. All right. Okay. Okay.

4 THE CLERK: And lastly, and I think I recognize this  
5 number, though, ending in 4411? Ending in 4411.

6 THE COURT: What's the beginning? A 215?

7 THE CLERK: A 215 number.

8 THE COURT: That's not Eileen, is it?

9 THE CLERK: No, but I thought that it might be  
10 Callahan.

11 THE COURT: Who?

12 THE CLERK: Mr. Callahan, but I'm not 100 percent  
13 sure.

14 THE COURT: All right. Who's on -- who's 4411?

15 THE CLERK: That's the last one.

16 MR. COLBY: Your Honor, both -- it seems like Mr.  
17 Warns and our colleague Ms. Gonzalez-Rivas were trying to  
18 unmute to respond --

19 THE COURT: That's fine.

20 MR. COLBY: -- and weren't able to. Others may be  
21 having the same issue.

22 THE CLERK: Right.

23 THE COURT: Right. That's -- okay. Can we unmute  
24 441 -- that's why I was asking, can they respond?

25 THE CLERK: If they're on a phone, they're not seeing

1 the prompt to unmute off the Zoom. It's a little clunky.

2 THE COURT: But they can hear us.

3 THE CLERK: They can hear us, but they might not be  
4 able to --

5 THE COURT: So if you're on 441 -- ending in 4411,  
6 could you please unmute your telephone and at least advise us  
7 who we are? Which is why we need to start requiring that you  
8 put a name.

9 THE CLERK: Well, the problem is they beep in while  
10 we're in the middle of stuff, so I'm not -- yeah.

11 THE COURT: All right. Last call, 4411.

12 THE CLERK: Should I dump them?

13 THE COURT: Dump them and they can call back.

14 THE CLERK: All right.

15 THE COURT: I mean, or they can email you. I mean if  
16 it's someone -- because it's a 215.

17 THE CLERK: Right.

18 THE COURT: They can email you. They have your email  
19 and Ms. Godfrey's email address to say I got kicked off. I  
20 want to hear, okay. All right.

21 MR. ALEXANDER: Your Honor, I think we can see all  
22 the names. I saw Mr. Crawford, who's a party. Mr. Wallace is  
23 Rembrandt.

24 THE COURT: Right. It was only the people who did  
25 not have identifications that we wanted to know who they were,

1 only because they're not in the courtroom and I can't see them.

2 Yes, counsel?

3 MS. BRUMME: I believe 215 ending in 4411 is Mr.

4 Callahan.

5 THE CLERK: I thought so, damn.

6 THE COURT: Well, he didn't answer. Did you kick him  
7 off?

8 THE CLERK: Yes.

9 THE COURT: He's going to have to call back. Sorry,  
10 Mr. Callahan -- Mr. Callahan is upstairs.

11 THE CLERK: I was going to say, he's got to walk down  
12 a block or whatever.

13 THE COURT: Come take the elevator down unless he's  
14 working from home. I don't know. I don't know their schedule.  
15 They could be working from home because our staff rotates also  
16 and they work what two days remotely, three days remotely?

17 THE CLERK: Yeah, two.

18 THE COURT: And in the mornings, I actually do my  
19 hearings telephonically and if I come in, I come in for the  
20 afternoon. Or unless today, I come in for the morning.

21 All right. You may proceed --

22 THE CLERK: I'm sure we're doing him a favor.

23 THE COURT: What?

24 THE CLERK: I'm sure we're doing him a favor.

25 THE COURT: I'm sure.

1 Mr. Kodosky, you may continue.

2 MR. KODOSKY: Thank you, Your Honor.

3 BY MR. KODOSKY:

4 Q Mr. Michaels, before we took a break, we were looking at  
5 what has been marked for identification as Debtor's Exhibit  
6 Number 71, page 6 of 6.

7 A Yes. Yes.

8 Q Which is the evidentiary material submitted by Mr.  
9 Stastney and SeeCubic Inc in support of their trademark  
10 application?

11 MR. KODOSKY: I'm sorry, John. If we can go back to  
12 Exhibit 71?

13 THE COURT: Oh, we're back to 71.

14 THE CLERK: 71.

15 MR. KODOSKY: Page 6 of 6? There we go.

16 THE COURT: Page 6.

17 MR. KODOSKY: And I had made the representation that  
18 these materials were the same website materials that we had  
19 looked at in the last hearing. Over break, I was incorrect  
20 about my exhibit reference number. It was Exhibit 61, not  
21 Exhibit 60. But we now have Exhibit 61 on the screen and if we  
22 can please scroll down to the third page. Right there.

23 BY MR. KODOSKY:

24 Q Do you see the third page of Exhibit 61 to be able to  
25 compare it with the sixth page of Exhibit 71, Mr. Michaels?

1 A Yes.

2 Q And does that appear to be the same materials?

3 A Yes, it does.

4 MR. KODOSKY: Staying on Exhibit 71, if we can scroll  
5 below a little bit further.

6 BY MR. KODOSKY:

7 Q We're next going to see the picture of the astronaut that  
8 we had seen on Exhibit 5 earlier today from the 2022 PPM. Do  
9 you see that astronaut?

10 A I do.

11 THE COURT: Wait a minute. The astronaut on exhibit  
12 -- on the snow -- astronaut -- is that an astronaut on the  
13 snowboard? Where am I at? Okay. Is that a snowboard? I  
14 mean, that's what I would call it. I don't know. Maybe it's  
15 an electronic something. Okay. So we're looking at the  
16 astronaut on page --

17 MR. KODOSKY: The cover page of Exhibit 5. The  
18 SeeCubic Inc 2022 private placement memorandum.

19 THE WITNESS: Yes.

20 THE COURT: Wait a minute. Exhibit 5, you said?

21 MR. KODOSKY: Yes, Your Honor.

22 THE COURT: Of which PPM?

23 MR. KODOSKY: 2022. And then back to Exhibit 71.

24 The last piece of evidentiary support they submitted, below the  
25 astronaut picture. I'm sorry, if we can scroll below the

1 astronaut picture, there's a quote there.

2 BY MR. KODOSKY:

3 Q "Quite frankly, 3-D glasses have never failed to be  
4 anything but a headache inducing, slightly blurry mess for me.  
5 That might be why a recent demo of a new glasses free 3-D TV  
6 blew me away. It just works." Do you see that, Mr. Michaels?  
7 That quote from ARS --

8 A Yes, I do.

9 MR. KODOSKY: If we go back to Exhibit 61, John, page  
10 7. This is the SeeCubic.com website on page 7 -- right there.

11 BY MR. KODOSKY:

12 Q Do you see that same quote? The "Quite frankly, 3-D  
13 glasses have never failed to be anything but a headache  
14 inducing, slightly blurry mess for me. That might be why a  
15 recent demo of a new glasses free 3-D TV blew me away. It just  
16 works." Do you see that, Mr. Michaels?

17 A Yes.

18 Q So the same quote from the SeeCubic website was submitted  
19 by Mr. Stastney and SeeCubic Inc on October 18th, 2023, as part  
20 of their trademark application?

21 A Yes.

22 Q And you were in court at the last hearing when --

23 A Yes.

24 Q -- we established that this quote was actually written  
25 about Stream TV and SeeCubic and not SeeCubic Inc. Do you



1 recall that testimony from Mr. Rajan?

2 A Yes. Yes, I do.

3 Q Thank you.

4 MR. KODOSKY: Move to admit Exhibit 71, Your Honor.

5 THE COURT: Any objection, counsel?

6 MR. COLBY: No, Your Honor.

7 THE COURT: All right. Exhibit 71, which is the  
8 application, right?

9 MR. KODOSKY: Correct.

10 THE COURT: Admitted.

11 (Debtor's Exhibit 71 admitted into evidence)

12 THE COURT: Okay.

13 MR. KODOSKY: Next, if we can take a look at Exhibit  
14 77, what has been marked for identification as Exhibit 77. If  
15 we can scroll to the second page.

16 BY MR. KODOSKY:

17 Q Do you recognize this document, Mr. Michaels?

18 A Yes.

19 Q What is it?

20 A It is a application to register a trademark, or a service  
21 mark filed on October 18th, 2023, by SeeCubic Inc.

22 MR. KODOSKY: Sorry, Your Honor. Exhibit 78 is the  
23 next document that I intended to show this witness.

24 THE COURT: 78?

25 MR. KODOSKY: Apologies, yes.

1 THE COURT: Not 77?

2 MR. KODOSKY: Correct.

3 THE COURT: Which appears to be the same as 71.

4 MR. KODOSKY: Correct.

5 THE COURT: Okay. Exhibit 78, okay.

6 BY MR. KODOSKY:

7 Q Mr. Michaels, you are being shown what has been marked for  
8 identification as Debtor's Exhibit Number 78. Do you recognize  
9 this document?

10 A Yes, I do.

11 Q What is it?

12 A It is a trademark -- or an application to register a  
13 trademark or service mark filed on May 26th, 2023. The mark is  
14 for SeeCubic Labs. The owner of the mark is purported to be  
15 SeeCubic Inc.

16 MR. KODOSKY: And if we can scroll down to show who  
17 signed the declaration on page 4 of 5.

18 BY MR. KODOSKY:

19 Q Who submitted this?

20 A Shad Stastney.

21 Q After having made the same representations by checking the  
22 boxes above his electronic signature?

23 A Yes.

24 MR. KODOSKY: Move to admit, Your Honor.

25 THE COURT: Any objection, Mr. Colby?

1 MR. COLBY: No, Your Honor.

2 THE COURT: So D-78 admitted.

3 (Debtor's Exhibit 78 admitted into evidence)

4 MR. KODOSKY: Next, we'd like to ask Mr. Michaels to  
5 please take a look at the document that has been marked for  
6 identification as Debtor's Exhibit Number 72.

7 BY MR. KODOSKY:

8 Q You recognize this document, Mr. Michaels?

9 A I do.

10 Q Is this a document that you had uncovered as part of your  
11 investigation?

12 A Yes. It's a -- do you want me to go onto what it is?

13 Q Yes, sir.

14 A This is the coversheet that's filed when recording an  
15 assignment of a trademark filed with the patent trademark  
16 office. And it becomes a public record of the transfer.

17 Q And what is the date of this document?

18 A The -- the document itself, the coversheet was prepared  
19 and filed on February 16th, 2022, and alleges to be recording a  
20 document executed on December 8th, 2020.

21 Q And are you able to tell us who filed this document?

22 A Yes. I -- you can go down and it -- it'll show that. The  
23 person submitting it was Shad Stastney.

24 Q And what trademarks is this document related to?

25 A If you go down, there'll be a schedule. But it has a

1 number -- Ultra D if you go down it'll show the --

2 Q Actually, I'm -- if we can go back up, I believe it was on  
3 page 1. Property numbers? Total --

4 A Yeah. Property numbers -- it'll be under property  
5 numbers, three. So in this case, it was SeeCube and Ultra --  
6 two different files for SeeCube and Ultra -- and then another  
7 one for Ultra D.

8 Q And so if you could briefly explain what this document is  
9 attempting to do?

10 A It is recording the assignment of intellectual property  
11 from -- this indicates in this case, three trademark registry -  
12 - two trademark registrations and one trademark registration  
13 application. The trademark registration application is the  
14 first one, where it just lists the serial number and that was  
15 for a mark owned by Stream transferring to SeeCubic Inc. Then  
16 the next one is the registration for -- registration for  
17 SeeCube. And even though it's the same mark, you can have  
18 different registrations for different classes of goods and  
19 services. And then finally, Ultra D was being transferred from  
20 Stream to SeeCubic.

21 Q And what support -- what evidentiary support was submitted  
22 by Mr. Stastney and SeeCubic Inc in support of this purported  
23 assignment?

24 A The omnibus agreement that was later invalidated by the  
25 Delaware Supreme Court.

1 Q So this was dated February of 2022. You were present  
2 during the last and previous hearings when the June 15th, 2022,  
3 Delaware Supreme Court opinion was referenced invalidating the  
4 omnibus agreement, correct?

5 A Yes, I was. Yes.

6 Q And so in other words, this was filed by Mr. Stastney and  
7 SeeCubic Inc approximately four months prior to the omnibus  
8 agreement being invalidated?

9 A Yes.

10 Q As part of your investigation, did you uncover any  
11 documents showing that any reverse action was taken by Mr.  
12 Stastney and/or SeeCubic Inc after the Delaware Supreme Court  
13 issued its opinion on June 15th of 2022?

14 A No, there are none filed with the patent trademark office.  
15 They would have shown up in the same search that uncovered this  
16 one.

17 MR. KODOSKY: Move to admit, Your Honor.

18 THE COURT: Any objection?

19 MR. COLBY: No, Your Honor.

20 (Debtor's Exhibit 72 admitted into evidence)

21 MR. KODOSKY: I'd next like to show Mr. Michaels what  
22 has been marked for identification as Debtor's Exhibit Number  
23 74.

24 BY MR. KODOSKY:

25 Q Do you recognize this document, Mr. Michaels?

1 A Yes.

2 Q Is this a document that you uncovered as part of your  
3 investigation?

4 A Yes.

5 Q Can you please explain what it is?

6 A It is also a recording of a -- in this case, a security  
7 interest in the underlying property identified therein. It  
8 records a security interest provided by SeeCubic Inc to Hawk  
9 Investment Holdings Limited.

10 Q What was the date that this was recorded?

11 A June 15th, 2022.

12 Q So the same day that the Delaware Supreme Court issued an  
13 opinion invalidating the omnibus agreement, SeeCubic Inc filed  
14 an assignment of the SeeCube and the Ultra D -- I'm sorry, a  
15 security interest in the SeeCube and the Ultra D to Hawk  
16 Investment Holdings Limited? Is that accurate?

17 A Yes. If you page down a bit --

18 MR. COLBY: Objection.

19 THE COURT: Wait a minute. Wait a minute.

20 Objection.

21 MR. COLBY: Objection, Your Honor.

22 THE WITNESS: Oh, I'm sorry.

23 MR. COLBY: I believe Mr. Kodosky previously  
24 referenced the June 15th date. There's also an execution date  
25 of June 11th.

1 THE COURT: Well, he said when it was filed.

2 MR. KODOSKY: Recorded.

3 THE COURT: Recorded.

4 MR. KODOSKY: Correct.

5 MR. COLBY: Right. So I just want to make sure  
6 we're --

7 THE COURT: Well, he said recorded. I know there's a  
8 difference between both of these and when they were executed  
9 and when they were filed.

10 MR. COLBY: Thank you.

11 THE COURT: All right. All right. And you can point  
12 out when you cross-examine when they were executed. But he was  
13 clear when they were -- when it was filed.

14 All right. Go ahead.

15 BY MR. KODOSKY:

16 Q Mr. Michaels, you were answering?

17 A If you page down on the document, it'll show the effected  
18 properties. And it's the same -- same properties.

19 Q And, who are the attorneys listed there in terms of having  
20 -- would the attorneys there have prepared this assignment  
21 document?

22 A I don't know if they prepared the assignment document. We  
23 do know that they filed the -- they were the ones that recorded  
24 the document with the patent and trademark offices. They're  
25 listed as the correspondence address and the name of the

1 submitter is Alison Lasher, who is identified as being  
2 associated with Scadden.

3 Q So this assignment was recorded the same day that the  
4 Delaware Supreme Court opinion was issued. Did your  
5 investigation uncover any reverse action taken by Scadden or  
6 SeeCubic Inc or Mr. Stastney or Hawk after June 15th, 2022? In  
7 other words, reassigning it back to Stream TV?

8 A My search was to look at all transactions related to these  
9 marks, and there's no reversal of this transaction and it would  
10 have shown up in my search if there had been one.

11 MR. KODOSKY: Move to admit Exhibit 74, Your Honor?

12 THE COURT: Any objection?

13 MR. COLBY: No objection.

14 THE COURT: Okay. Admitted.

15 (Debtor's Exhibit 74 admitted into evidence)

16 MR. KODOSKY: Next ask to show Mr. Michaels what has  
17 been marked for identification as Debtor's Exhibit Number 73.

18 BY MR. KODOSKY:

19 Q Do you recognize this document, Mr. Michaels?

20 A Yes.

21 Q What is it?

22 A This is what is referred to as a statement of use. And  
23 it's filed with the patent and trademark office at various  
24 times to affirm that the mark is being used in commerce that  
25 the federal government can regulate, and to show the nature of



1 that use as being consistent with the registration application  
2 or registration.

3 MR. KODOSKY: If we can scroll to page 5.

4 BY MR. KODOSKY:

5 Q I'm sorry. What trademark is this referencing?

6 A The SeeCube.

7 MR. KODOSKY: If we can please scroll to page 5 of 8.

8 THE COURT: Did somebody come on? Did somebody  
9 leave?

10 THE CLERK: Callahan came back in.

11 UNIDENTIFIED SPEAKER: -- Callahan came back, and  
12 this is someone named Patrick Miles.

13 THE COURT: All right. And who's he? Mr. Miles, who  
14 are you associated with? Hello? Anybody know who Patrick  
15 Miles is?

16 MR. COLBY: My guess is that it is a Patrick Miles  
17 who is or was an investor, is an investor in Stream TV and  
18 SeeCubic.

19 UNIDENTIFIED SPEAKER: He just hung up.

20 THE COURT: Okay. I mean, I can't see who comes and  
21 goes in the court. If you're here, I'm going to assume that  
22 you have some interest. But our goal is to gatekeep. Again  
23 because we don't want people who have no interest just  
24 listening in and -- I mean, they can because it's open to the  
25 public but typically we'll know who they are. And we don't

1 anybody disrupting so we're keeping everybody on mute.

2 Okay. You may continue. I apologize. This is D73,  
3 counsel, you were asking Mr. Michaels questions regarding?

4 BY MR. KODOSKY:

5 Q Yes. If -- on page 5 of 8, if you're able to tell us who  
6 signed the declaration making the same representations that Mr.  
7 Stastney had made earlier on this document.

8 THE COURT: Page 5 of 8?

9 THE WITNESS: Yes. This was signed by --

10 THE COURT: Wait a minute.

11 THE WITNESS: I'm sorry, was that an objection?

12 THE COURT: Okay, the --

13 MR. KODOSKY: Declarations.

14 THE COURT: -- declarations?

15 MR. KODOSKY: Yes, Your Honor.

16 THE COURT: Okay.

17 BY MR. KODOSKY:

18 Q Who signed this declaration, Mr. Michaels?

19 A Raja Rajan as chief operating officer of Stream.

20 Q And what is the date that he signed it?

21 A This was back in March 28th of 2018.

22 Q And if we scroll to page 6 of 8, it appears there some  
23 materials that were submitted along with this, pages 6, 7. Do  
24 you see those materials?

25 A Yes, I do.

1 Q And does that indicate to you -- what does that indicate  
2 to you?

3 A These are specimens showing the actual use and in somewhat  
4 of an ideal specimen. And it is showing the mark being used on  
5 the box and the actual product itself, which is what the patent  
6 trademark is looking for. It's indicating the source of the  
7 goods. That's its primary functionality in term of a trademark  
8 or service mark. In this case a trademark. And this is the  
9 back of the TV showing SeeCube (sic) being used and then the  
10 box it came in. That's the classic way a trademark is used.

11 Q So whereas SeeCubic, Inc., and Mr. Stastney submitted  
12 website materials containing quotes written about Stream TV,  
13 when Stream TV was filing their materials, they actually  
14 included pictures of the product in the box and the mark being  
15 used, correct?

16 A Yes.

17 MR. KODOSKY: Move to admit Debtor's Exhibit Number  
18 73, Your Honor.

19 THE COURT: Any objection?

20 MR. COLBY: No objection, Your Honor.

21 THE COURT: Admitted.

22 (Debtor's Exhibit 73 admitted into evidence)

23 BY MR. KODOSKY:

24 Q Next ask that Mr. Michaels be shown what has been marked  
25 for identification as Debtor's Exhibit Number 80. Do you

1 recognize this document, Mr. Michaels?

2 A Yes, I do.

3 Q What is it?

4 THE COURT: Hold on.

5 MR. KODOSKY: I'm sorry, Your Honor.

6 THE COURT: Okay. What is it? Go ahead.

7 BY MR. KODOSKY:

8 Q What is it, Mr. Michaels?

9 A This is the -- a copy of the registration certificate for  
10 SeeCube.

11 Q What's the date of this document?

12 A This was registered on June 5th, 2018.

13 MR. KODOSKY: Move to admit, Your Honor.

14 THE COURT: Any objection?

15 MR. COLBY: No objection, Your Honor.

16 THE COURT: Okay.

17 (Debtor's Exhibit 80 admitted into evidence)

18 BY MR. KODOSKY:

19 Q Shifting gears, Mr. Michaels. What interaction, if any,  
20 have you had with the Receiver, Mr. Liston, in this case?

21 A We reached out to Ian Liston in a variety of ways. One,  
22 wanted to express our rights as we understood them in hoping to  
23 enter into a productive conversation with respect to providing  
24 the use of the TV's. Secondly, we reached out with a specific  
25 project we were working on, and we offered to pay the

1 production costs of setting up an entire line to start  
2 fulfilling our needs for, our need/hope for the TV units. This  
3 would be a cost completely born by Rembrandt. We received zero  
4 response to both inquiries.

5 Q And who -- if you're able to say, I don't know if you're  
6 able to say or if it would be violating any confidentiality  
7 provisions, but are you able to say who the Rembrandt proposal  
8 was with, whose companies?

9 A We were -- yes, I can. It was -- we were looking to do a  
10 project with James Cameron and the associated companies that  
11 managed some of their 3D creation content. And we were looking  
12 to create a series of hardware and content solutions that would  
13 be used in both provision of the 3D content he creates, but  
14 also to advertise it in movie theaters with the no glasses 3D  
15 TV.

16 Q Is that the same James Cameron who directed the movie  
17 Titanic and the move Avatar and so forth, Terminator?

18 A Yes.

19 Q And I'm sorry, what response did you receive from the  
20 Receiver in regards to your proposal?

21 A Silence. Nothing.

22 Q Again, shifting gears. The Defendants have noted that  
23 they intend to call Bart Barenbrug as a rebuttal witness in  
24 this matter. Do you know Mr. Barenbrug?

25 A I've never met him. But I certainly know of him and have

1 read his declarations and numerous email interactions with  
2 Steven Blumenthal.

3 Q What declaration are you referring to?

4 A He filed a declaration in 2017 in the Southern District of  
5 New York action, the *Rembrandt v. Stream*. He was also a  
6 defendant in that case.

7 MR. KODOSKY: Would ask that Mr. Michaels be shown  
8 what has been marked for identification as Debtor's Exhibit  
9 Number 84.

10 THE COURT: Is this another binder?

11 MR. KODOSKY: I apologize, Your Honor. We've got a  
12 hard copy.

13 THE COURT: Have you sent that to --

14 MR. KODOSKY: Yes, Your Honor.

15 THE COURT: Okay.

16 MR. KODOSKY: Yes, Your Honor.

17 THE COURT: All right, because mine went up to 80. I  
18 just wanted to make sure. And have you shared that with Mr.  
19 Colby?

20 MR. KODOSKY: Yes, Your Honor. Permission to  
21 approach?

22 THE COURT: Yes. All right.

23 BY MR. KODOSKY:

24 Q Mr. Michaels, you're being shown what has been marked for  
25 identification as Debtor's Exhibit Number 84. Do you recognize

1 this document?

2 A Yes, I do.

3 Q What is it?

4 A This is the declaration of Bart Barenbrug filed in the  
5 action brought by Rembrandt against Stream and the other named  
6 Defendants, the Rajan's, Walter Roelen, Bart Barenbrug, Peter  
7 Roelen, and Hans Zuidema. This was filed on February 6th,  
8 2017.

9 Q Can you please point us to the provision of this  
10 declaration pertaining to a nondisclosure agreement that you  
11 had referenced earlier?

12 A Yes. It's paragraph 7. He -- I mean, basically this  
13 entire thing is untrue. But it says, "During my time with my  
14 discussions with 3D Fusion Corp, paren, I was never employed by  
15 the company, end paren. I did not enter into a nondisclosure  
16 agreement NDA with a New York Company or negotiate such an  
17 agreement in New York. I do recall reviewing a draft NDA. I  
18 have never -- I never received an employment contract with 3D  
19 Fusion EUBD. And to the best of my knowledge, the DNA was  
20 never fully consummated. I never received or acknowledged  
21 receipt of an executed DNA."

22 MR. KODOSKY: Move to admit, Your Honor.

23 MR. COLBY: Objection, Your Honor. I think it's  
24 hearsay. Plus Mr. Barenbrug will be here to testify himself.

25 THE COURT: All right. Counsel, hearsay.

1 MR. COLBY: I also don't see the relevance of it to  
2 the present TRO motion.

3 MR. KODOSKY: And to the hearsay, Your Honor, I did  
4 promise to get back to you with a case cite for that Kos Pharms  
5 case over break. It's 369 F.3d --

6 THE COURT: Wait a minute. Wait a minute. Let me go  
7 -- well, you just can give -- give me the name again. Which  
8 was the name of the case?

9 MR. KODOSKY: The name of the case is Kos Pharms --

10 THE COURT: Versus?

11 MR. KODOSKY: It's Kos Pharmaceuticals Inc., versus  
12 -- I'm going to pronounce it Andrx, A-N-D-R-X, A-N-D-R-X  
13 Corporation. It's a May 24th, 2004 3d Circuit opinion with a  
14 case cite of 369 F.3d 700.

15 THE COURT: Okay. And it is 3d Circuit what?

16 MR. KODOSKY: May 24th, 200 --

17 THE WITNESS: Four.

18 MR. KODOSKY: Four.

19 THE COURT: And that addresses the issue of hearsay  
20 materials in a preliminary injunction hearing?

21 MR. KODOSKY: Thus formal evidentiary requirements  
22 applying in --

23 THE COURT: Preliminary injunction.

24 MR. KODOSKY: It was also a trademark infringement  
25 case, Your Honor.



1 THE COURT: And the court said what because my law  
2 clerk is out on another meeting, so. Oh, he's back. Perfect  
3 timing because there was a case that they cited and I said,  
4 well, you're going to have to tell me what it says because my  
5 law clerk is not here. He's out on another meeting.

6 MR. ZAHRALDDIN: Your Honor -- this is Zahralddin. I  
7 think in order -- instead of just whispering to Mr. Kodosky.  
8 The reason this is relevant is there's been testimony here that  
9 everything is fine as long as the folks as SCVB are handling  
10 the trade secrets. The trade secrets, as the testimony will  
11 show and as the documents will show, have been in the past  
12 mishandled by the same people at SCBV (sic) that are still  
13 there. The same engineers that were there before. So it's  
14 entirely relevant to hear about these same trade secrets, the  
15 Rembrandt Trade Secrets and the Stream Trade Secrets through  
16 Mr. Michaels who is worried obviously that his trade secrets  
17 will be misused as are we worried that they're being misused.

18 THE COURT: Let me just say this. The focus of this  
19 TRO as I understand it is to say you want a restraining order  
20 saying don't use -- not don't use. Don't license or use our  
21 technology. Our meaning Stream and Rembrandt's technology that  
22 apparently was somebody else's technology that is now somebody  
23 else's technology. All of which doesn't look good to me, but  
24 I'm going to keep that comment to myself. About, you know,  
25 who's using what and who's using whatever.

1 But in any event, you're saying it's relevant because  
2 you believe that these people in the Netherlands because that's  
3 -- and I don't mean to say these people in a bad way. But the  
4 folks, that might be a better word. The folks in the  
5 Netherlands are using or plan to use technology that they  
6 shouldn't be using, or licensing, not using because I'm not  
7 saying -- I haven't heard anything that says they can't use it.  
8 But they can only use it for -- at least the allegation from  
9 Rembrandt and Stream is they could only use it for a specific  
10 purpose. And you believe that they are going to use this for  
11 some unallowed purpose.

12 MR. ZAHRALDDIN: Well, we've heard testimony to that  
13 effect, Your Honor, from Mr. Stastney.

14 THE COURT: Well, Mr. Stastney hasn't testified yet.  
15 But you believe you heard it from him in the Netherland  
16 proceedings, no?

17 MR. ZAHRALDDIN: Oh, no. He testified, Your Honor.  
18 He did. He testified on October and indicated that -- that was  
19 the most recent issue that we had was with --

20 THE COURT: Well, was that in the other hearing?

21 MR. KODOSKY: No.

22 MR. ZAHRALDDIN: No.

23 MR. COLBY: Your Honor, Mr. Stastney was called as  
24 part of the Debtor's other case.

25 THE COURT: As of cross?

1 MR. COLBY: Part of the Debtor's.

2 MR. KODOSKY: Part of the Debtor's yeah.

3 THE COURT: Listen, these -- no offense, these  
4 hearings -- I just said that to my law clerk. This is all  
5 starting to blur together --

6 MR. COLBY: Understand.

7 THE COURT: -- because I've had so many -- and I'm  
8 glad you guys are keeping it straight. And I'm sure that if I  
9 go back and think about it I will. But this TRO hearing, Mr.  
10 Stastney was called as of cross, correct?

11 MR. COLBY: Right.

12 MR. ZAHRALDDIN: Yes. He was part of our -- one of  
13 our witnesses and --

14 THE COURT: Right. And you believed that his  
15 testimony at that time --

16 MR. ZAHRALDDIN: He indicated that there was some  
17 sort of sublicensing protection that would allow him to use the  
18 technology through the SCVB. This is directly relevant because  
19 the folks at SCVB have committed trade secret violations in the  
20 past, have been the subject of the original -- the same people,  
21 including Mr. Barenbrug, if I'm pronouncing his name correctly,  
22 and that's why this is relevant testimony. It is simply to  
23 show that that testimony may not be as stalwart as we would --  
24 they'd like it to be.

25 THE COURT: Do you want to try and impeach Mr.

1 Barenbrug before -- Barenbrug --

2 MR. ZAHRALDDIN: I don't believe it's impeachment,  
3 Your Honor. I believe we are asking Mr. Michaels what has  
4 happened in a prior case where Mr. Barenbrug -- it's not our  
5 fault that they chose the guy who --

6 THE COURT: All right. Keep the commentary. I don't  
7 need to hear that.

8 MR. ZAHRALDDIN: I'm just explaining that it's not  
9 our choice to put Mr. Barenbrug up. Mr. Barenbrug happens to  
10 be the person primarily who where the evidence was shown or  
11 will show signed a declaration here in the United States saying  
12 that he did not sign an MDA. And we would like to walk through  
13 the rest of this to show the MDA that he signed.

14 THE COURT: So what's -- is Mr. Michaels a -- is he  
15 rebutting something? What's he doing?

16 MR. ZAHRALDDIN: He's simply showing that Mr.  
17 Barenbrug, a former engineer at 3D Fusion, an engineer --

18 THE COURT: Well, he says he wasn't an engineer, and  
19 he said he didn't have an MDA.

20 MR. ZAHRALDDIN: It's interesting because there's a  
21 -- here's a signed employment agreement.

22 THE COURT: Oh, I -- okay.

23 MR. ZAHRALDDIN: That's what we would like to show,  
24 Your Honor. That's why it's relevant.

25 THE COURT: Why -- okay. Are you anticipating -- I

1 mean, I get it. I get the question is -- I mean, if Mr.  
2 Barenbrug --

3 MR. COLBY: You nailed it, Your Honor. You nailed  
4 it.

5 THE COURT: Barenbrug comes and testifies, and he  
6 says all these things and you got signed documents, why do I  
7 need Mr. Michaels to tell me anything because you can ask him,  
8 did you sign this?

9 MR. ZAHRALDDIN: I'm not worried about that, Your  
10 Honor. He may never ask him that question and they cancel him.

11 THE COURT: Well, then you can ask him.

12 MR. ZAHRALDDIN: Well, he may never show up if --  
13 once this is shown.

14 THE COURT: Well, that's their problem.

15 MR. ZAHRALDDIN: But it's our problem if we can't get  
16 in the evidence in our case in chief. Our case in chief was  
17 responding to Mr. Stastney and his allegation that everything's  
18 fine if it goes over to the engineers at the SCVB because  
19 they're protect the licenses and the technology.

20 THE COURT: And so you're rebutting Mr. Stastney's  
21 testimony that these people at -- I mean, these folks at SC,  
22 SB, SCVB are protecting the license because they're not doing  
23 anything untoward. And your response is that the people at S -  
24 - you want Mr. Michaels to testify that no, they're not  
25 protecting it. And they're not protecting it because they've

1 done these things in the past. And is that past behavior? Is  
2 that MO? I don't know what that -- I mean, listen. I don't  
3 know.

4 MR. COLBY: Your Honor, I think there's an overarch  
5 of the larger overarching problem with this, which is that  
6 we've gotten really far removed from what a TRO or a  
7 preliminary injunction is supposed to be about. It's supposed  
8 to be about the potential for immediate. And the Debtor's have  
9 the burden of showing that there is going to be an immediate  
10 irreparable harm. What they're now saying is we should be  
11 granted this injunctive relief because Mr. Barenbrug and others  
12 are careless. And so, something bad might happen. That's  
13 essentially what they're trying to say. They're trying to  
14 impugn their character as stewards of technology of the  
15 confidentiality of technology. And therefore, you know, we  
16 should get injunctive relief.

17 THE COURT: Well --

18 MR. COLBY: That's just on its face fails the test  
19 that's required for --

20 THE COURT: Well, I'm not quite sure if it's that --  
21 as that limited as you're saying. Because what I'm  
22 understanding them to say is we're going to have irreparable  
23 harm because these people in charge of our technology are not  
24 protecting it and they haven't in the past. So that's the  
25 indication that they're not protecting it. And we're going to

1 suffer harm because they're not protecting it. That's -- I  
2 mean, it's not as limited as you're saying, which is that they  
3 might. They're saying they didn't do it and we don't believe  
4 they're doing it now and we're going to be irreparably harmed.

5 MR. COLBY: There's a number of issues with that.

6 THE COURT: Woah. I was talk -- you'll get a chance.  
7 I'm having a conversation with Mr. Colby here.

8 MR. COLBY: There's a number of issues with that.  
9 Including that these are the same engineers and it's the same  
10 operation that Stream TV itself, the Debtor's owned and  
11 operated prior to Judge Laster's opinion in 2020. And  
12 subsequent to the reversal under the Delaware Supreme Court.  
13 So it's just like --

14 THE COURT: Well, I mean, all of this -- listen.  
15 I'll probably say something I'll regret. But this seems to be  
16 that engineer from here, to here, to here, to here and -- never  
17 mind. Never mind. I just don't look to -- never mind.

18 MR. ZAHRALDDIN: Your Honor --

19 THE COURT: Go ahead.

20 MR. ZAHRALDDIN: -- I have to say, let me respond to  
21 just a couple things. The law does not say, it's not  
22 characterized irreparable harm the way Mr. Colby set it up.  
23 We've cited plenty of cases in this district that all say the  
24 same thing. Any showing of a harm to a trade secret that it  
25 may be revealed is irreparable. Any showing of it is

1 irreparable. We have those cases.

2 So it's overstating. This is not -- when you're  
3 talking about intellectual property and trade secrets, which  
4 are not protected like patents or copyrights or trademarks,  
5 there's a very significant issue. Very significant issue with  
6 irreparable harm. It is immediate. And, you know, Mr. Kodosky  
7 can discuss those a little bit further if you'd like us to.

8 THE COURT: Well, no. I mean, we're going far a  
9 field because the issue that is -- the precise evidentiary  
10 issue is whether Mr. Michaels should be allowed to testify  
11 regarding Mr. Barenbrug's relationship with the IP at issue.  
12 I'm going to call it IP. I don't know if that's the trademark.  
13 Is it trademark, IP? What's the correct --

14 MR. ZAHRALDDIN: It's a trade secret, Your Honor.

15 THE COURT: Trade secret.

16 MR. ZAHRALDDIN: The nondisclosure agreement is what  
17 the employee would be forced to keep the secret --

18 THE COURT: Right.

19 MR. ZAHRALDDIN: -- the trade secret secret.

20 THE COURT: But was that issue in this TRO hearing is  
21 that it's technology that allegedly belongs to the Debtor that  
22 they believe is at risk because the entity in the Netherlands  
23 is likely to do something with the Debtor's asset that they're  
24 not allowed to do. And that the Debtor will suffer irreparable  
25 harm if they're not prevented from doing whatever it is you



1 think they're going to do to harm, or they are doing with  
2 respect to that technology. And with respect to Mr. Michaels'  
3 testimony, his testimony is that Mr. Barenbrug did not protect  
4 this in the -- I guess did not protect it when he was working  
5 at Rembrandt and can't be trusted to --

6 MR. ZAHRALDDIN: Well, and at Stream, Your Honor.  
7 Because this all is the timeline, and these are materials that  
8 Mr. Michaels got through a discovery when he sued Stream  
9 originally.

10 THE COURT: And sued Mr. Barenbrug.

11 MR. ZAHRALDDIN: Excuse me?

12 THE COURT: And sued Mr. Barenbrug.

13 MR. ZAHRALDDIN: Yes, and all the other engineers  
14 that were involved in the --

15 THE COURT: That allegedly were working for this  
16 other company and somehow ended up at Stream and now it's  
17 SeeCubic.

18 MR. ZAHRALDDIN: Which then led to the settlement  
19 that we're talking about and that's why it's relevant. It's  
20 relevant because it shows that Mr. Barenbrug and the other  
21 engineers have -- well, I --

22 THE COURT: Can't be trusted with the IP trade --  
23 they could be trusted when they were at Stream.

24 MR. ZAHRALDDIN: That's I believe --

25 MR. COLBY: It's like a character point, Your Honor.

1 It's tempting to get in at a TRO based on impugning --

2 THE COURT: Well --

3 MR. ZAHRALDDIN: It's a violation of the trade  
4 secret.

5 THE COURT: Well, I'm seeing about impugning. The  
6 question for me -- again, I have my own thoughts on this stuff  
7 and I'm trying to restrain myself from saying something that's  
8 likely irrelevant. It's highly irrelevant, just my view of  
9 this. It's not going to have anything to do on how I decide.  
10 But what I'm hearing is that we're going to be harmed because  
11 the engineers who are in charge and who are supposedly  
12 protecting -- and that's the word. I'm going to use supposedly  
13 or allegedly, protecting our trade secret technology are not  
14 protecting it and can't -- and Mr. Stastney testified that they  
15 are and there's nothing going on. And they're saying, no, you  
16 can't because these people -- these people that I'm -- I hate  
17 using that word, these people, but the engineers have a  
18 propensity not to protect trademark, which -- anyway, so that's  
19 what I'm hearing.

20 MR. COLBY: Yeah. Based upon an NDA with -- or -- or  
21 not, and a declaration in a different case from five years ago.  
22 I think what -- what -- what the appropriate focus should be is  
23 what protections are in place now and -- and the --

24 THE COURT: Well, the protection that I heard was in  
25 place from Mr. Stastney was that, you know, I guess the

1 engineers, or whoever's working on protecting these assets, and  
2 their position is these people can't -- whoever you're relying  
3 on can't be trusted to protect it.

4 MR. COLBY: And that's -- that's the point. It's  
5 attempting to obtain injunctive relief based on  
6 the -- impugning the reputation --

7 THE COURT: You don't have to impugn anyone's  
8 reputation. You can see what they did or didn't do and tell  
9 me, no, I'm not doing that.

10 MR. COLBY: And that's -- and that's -- and that's  
11 what the focus should be, not -- not attempting to -- and it  
12 is. They're saying that they can't be trusted. That is  
13 impugning somebody's --

14 THE COURT: Well, I'm not saying they can't be  
15 trusted. They're saying this is what they did in the past. We  
16 believe they're doing it right now. Is that impugning your  
17 reputation? Maybe it is. I don't know.

18 MR. COLBY: It's impugning their character as  
19 stewards of trade -- of trade secrets. It's attempting to get  
20 injunctive relief now based on what -- what Debtors say is  
21 their -- their character or -- for protecting trade secrets.

22 THE COURT: Is that their character or their history?

23 MR. COLBY: Either -- that -- that's what --

24 THE COURT: That's a little different.

25 MR. COLBY: That's what character testimony is.

1 That's what character evidence is.

2 THE COURT: Well, no. Character testimony isn't  
3 necessarily your history. I mean, it could include that, but  
4 I'm not quite -- and you may be right, Mr. Colby. I'm trying  
5 to figure out --

6 MR. COLBY: It's also -- it's -- it's an allegation.  
7 It's a claim that they made in the past in a lawsuit that was,  
8 you know, dismissed.

9 THE COURT: Settled. No. It was settled.

10 MR. COLBY: Well, the -- the claim for violation of  
11 an NDA, I believe, was the contract claim that was settled.  
12 That was between Stream TV and -- that was between Stream TV  
13 and Rembrandt, not Mr. Barenbrug.

14 THE COURT: Well, I don't know.

15 MR. COLBY: That was --

16 THE COURT: I don't know because --

17 MR. COLBY: That was Stream TV and Rembrandt.

18 THE COURT: -- I don't have -- I don't have the  
19 settlement, unless someone put it in evidence, because it could  
20 be and I just don't recall.

21 MR. ZAHRALDDIN: Your Honor, let me -- let me stop  
22 Mr. Colby before he misrepresents something yet again about  
23 that --

24 THE COURT: All right. Ba, ba, ba --

25 MR. ZAHRALDDIN: No, no, because this is important.

1 THE COURT: Wait a minute.

2 MR. ZAHRALDDIN: This is important. They keep on  
3 saying --

4 THE COURT: Wait. Wait, wait, wait. Wait, wait,  
5 wait. I have told all of you guys, I don't like the, you know,  
6 misrepresent -- he maybe -- he is not recalling correctly,  
7 he's -- something. But don't -- don't throw those words out.  
8 I don't like those words.

9 MR. COLBY: And particularly, it wasn't even -- I --  
10 that was very uncivil, and I've done my best to be civil.  
11 That -- it wasn't even that I misrepresented something or  
12 misstated something. It was that I was about to. And  
13 that's -- that's --

14 THE COURT: All right. All right.

15 MR. COLBY: -- frankly, the same point they're making  
16 about Mr. Barenbrug.

17 THE COURT: So let's just get to the point. What was  
18 it that you wanted to tell me, because I said I thought it was  
19 settled, and Mr. Colby said only with Stream. And you're going  
20 to tell me something else.

21 MR. ZAHRALDDIN: Well, Your Honor, the part that was  
22 dismissed without prejudice was the patent infringement piece,  
23 because the Supreme Court decided the Hartland (phonetic) case  
24 and said that all patent infringement cases had to be refiled  
25 in the place of incorporation, which would be Delaware.

1 THE COURT: Okay.

2 MR. ZAHRALDDIN: They instead, as I think has been  
3 produced in evidence in this Court before, have said, no, we  
4 didn't pursue that, we didn't pursue anything further because  
5 we had a settlement. We had a settlement so we don't pursue  
6 the patent cases. It's been put into papers without the  
7 qualification of without prejudice multiple times.

8 THE COURT: Okay.

9 MR. ZAHRALDDIN: So that is a misrepresentation.  
10 That is not a disparaging comment. It is a less -- a less than  
11 accurate --

12 THE COURT: All right.

13 MR. ZAHRALDDIN: -- portrayal of a dismissal.

14 THE COURT: Okay. So it's a less -- let's use  
15 the -- let's keep to the phrase.

16 MR. ZAHRALDDIN: We can tone it down if you'd like  
17 but --

18 THE COURT: Yes.

19 MR. ZAHRALDDIN: -- that would offend most people.

20 THE COURT: Less than accurate representation. And  
21 maybe the -- maybe because they didn't think -- I mean, to me,  
22 it was without prejudice. I would put it in there because it  
23 means something. Maybe there's a reason they didn't. I don't  
24 know. But I would not jump to the conclusion that it -- I  
25 could -- I don't know about counsel, but I could come to find

1 that it was a mis- -- it wasn't even a -- we just didn't think  
2 it was relevant. I don't know. But the whole point is don't  
3 use misrepresentation. Use inaccurate, not a complete  
4 representation. The word misrepresentation just has so much --

5 MR. ZAHRALDDIN: I will -- I will --

6 THE COURT: Please use -- that's for everybody.

7 MR. ZAHRALDDIN: But I'll make sure I do that in the  
8 future. I just know that oftentimes, because it's such a large  
9 record, a lot of things slip by --

10 THE COURT: Well, they might slip by for now, but if  
11 it's on the record, I will read the transcript.

12 MR. ZAHRALDDIN: Okay.

13 THE COURT: Don't ever believe, because I don't  
14 recall the specifics, that when it comes time to decide, that  
15 I'm not going to go over these 50 transcripts. This is not  
16 something that I'm just going to do off the top of my head.

17 So you can point out and say, well, I'd like to make  
18 the record complete because Mr. Colby did not give a complete  
19 representation --

20 MR. ZAHRALDDIN: I will do so in the future.

21 THE COURT: All right. Then -- and Mister -- that's  
22 for everybody in here. So Mr. Zahralddin, you want to point  
23 out that there were some things omitted by Mr. Colby that would  
24 give a more complete representation of what occurred with  
25 respect to the --

1 MR. ZAHRALDDIN: The settlement.

2 THE COURT: -- action in --

3 MR. ZAHRALDDIN: The settlement.

4 THE COURT: -- in the Southern District of New York,  
5 which I think you've already said --

6 MR. ZAHRALDDIN: Yes, ma'am.

7 THE COURT: -- that it was a case that required the  
8 filing in Delaware. It was dismissed without prejudice.

9 MR. ZAHRALDDIN: Yes, ma'am.

10 THE COURT: And the parties resolved the entire  
11 litigation, which is why you didn't go to Delaware. "You"  
12 meaning --

13 MR. ZAHRALDDIN: Not me, but Stream obviously and --

14 THE COURT: Stream -- not Stream --

15 MR. ZAHRALDDIN: Stream and Rembrandt --

16 THE COURT: -- Rembrandt did not go.

17 MR. ZAHRALDDIN: -- decided to settle, yes.

18 THE COURT: Okay.

19 MR. ZAHRALDDIN: Which I believe was in testimony in  
20 prior hearings --

21 THE COURT: And what SeeCubic --

22 MR. ZAHRALDDIN: -- here.

23 THE COURT: -- would not know because it didn't even  
24 exist at the time.

25 MR. ZAHRALDDIN: Well, SeeCubic wouldn't have because



1 Mr. Stastney is the one who signed that agreement.

2 THE COURT: Okay.

3 MR. ZAHRALDDIN: And Mr. Stastney was the CFO at that  
4 time of Stream.

5 MR. COLBY: So --

6 THE COURT: So Mr. Stastney, who is now the --

7 MR. ZAHRALDDIN: CEO of SeeCubic.

8 THE COURT: Would have had that information.

9 MR. ZAHRALDDIN: Yes, he would have.

10 THE COURT: In his -- in his capacity as an officer  
11 of --

12 MR. ZAHRALDDIN: He was, I think, vice chair of the  
13 board as well as CFO of Stream at the time, and he's the one  
14 who executed the settlement agreement, which we've heard  
15 testimony on before in here.

16 MR. COLBY: Yes. Your Honor, if I might? All of  
17 this was covered in great detail the first time Mr. Michaels  
18 testified and when Mr. Stastney testified on the Hawk motions.  
19 I don't have --

20 THE COURT: Do you really think I recall that?

21 MR. COLBY: Yeah. No, no.

22 THE COURT: Come on, Counsel.

23 MR. COLBY: That's why I'm trying to --

24 THE COURT: And nobody has said they wanted to  
25 incorporate by reference any of that testimony. And to be

1 honest, you know, I don't recall it. I recall some of it.  
2 That's why I'm asking, did I see this settlement agreement?

3 MR. COLBY: And that's why, Your Honor, that's why I  
4 bring it up. Not to suggest that you should have recall of it  
5 sitting here today, but simply to say that I don't know why we  
6 seem to have a controversy over this. The record -- it's in  
7 the record. It's abundantly clear --

8 THE COURT: But it's not a record --

9 MR. COLBY: -- what happened.

10 THE COURT: -- I'm going to look at for this.

11 MR. COLBY: Right.

12 THE COURT: Nobody's asking me to go -- because it  
13 would be inappropriate for me to say, well, I heard this in  
14 here and I'm going to incorporate it here without having the  
15 parties address it. I mean, it's not a continuation of the  
16 same matter. They involve the same parties but they're a  
17 different record. And I don't -- unless the parties ask me to,  
18 I do not go look at records in a prior matter. Now, some  
19 things I just may recall and I might drop a footnote saying the  
20 Court, you know, based on my understanding, understood  
21 something.

22 MR. COLBY: Well, I think we're talking about it  
23 primarily as background for the evidentiary objection for Mr.  
24 Michaels' testimony today, not because it's relevant to the  
25 current motion.

1 THE COURT: Right.

2 MR. COLBY: That's why we're talking about it.

3 So -- but my broader point was it's all in the -- it's all in  
4 the record. I don't think we agree about the facts. The facts  
5 are the facts.

6 THE COURT: But the facts for me today --

7 MR. COLBY: Right.

8 THE COURT: -- are whether the technology, trademark,  
9 IP, whatever the appropriate term, is at risk for the Debtor  
10 being harmed. And that is what I am trying to ultimately  
11 decide, at least with respect to a TRO. Okay. And your  
12 position is it's irrelevant because what Mr. Bru -- Barenbrug  
13 did in -- what year is this? 2017. How many years is that?  
14 Eight years ago? No. That's eight and seven is '25. Six  
15 years ago? Or soon to be -- soon to be seven.

16 MR. ZAHRALDDIN: Soon to be seven.

17 THE COURT: Soon to be seven years ago has no bearing  
18 on what -- whether the assets, the trademark of the Debtor is  
19 at risk.

20 MR. COLBY: Correct, Your Honor. And suffice it to  
21 say there was a dispute between Rembrandt and Stream and,  
22 apparently, Mr. Barenbrug in that 2017 time period. There was  
23 a dispute. Rembrandt has made allegations. The litigation,  
24 what happened happened. Those are just simply facts.

25 The point that I'm making is that that's not -- I'm

1 sure there's, like everything else, two sides to that story.  
2 We don't need to litigate it here today. It's irrelevant  
3 and -- it's irrelevant to try to litigate it for its own sake  
4 and it's not relevant to the present question about whether or  
5 not, you know, injunctive relief is warranted now here today  
6 with respect to those assets in the Netherlands.

7 THE COURT: Well, I understand why the Debtors think  
8 it's relevant because they think their IP, trademark, trade  
9 secrets are not going to be protected because one of the  
10 persons in -- who's allegedly protecting it -- and I don't know  
11 Mr. Barenbrug's position, but he's an engineer, I gather. He's  
12 one of the engineers working presently on the disputed IP.  
13 Okay.

14 And the question becomes then, is this person who is  
15 charged, presumably charged, with protecting the assets of the  
16 Debtor can be -- will protect -- will protect that. And  
17 they're saying, no, you can't, see what he did.

18 And so my question again, is this something better  
19 left to confronting Mr. Barenbrug about when he testify -- if  
20 and when he testifies. Their position is if you do not call  
21 Mr. Barenbrug, they will be unable to show that the people who  
22 are in charge of protecting the IT weren't going to protect it.  
23 That's their position.

24 MR. COLBY: Understand that.

25 THE COURT: And so what I have to figure out is do I

1 let it in now, because you may not call Mr. Barenbrug --

2 MR. ZAHRALDDIN: Or he may make himself unavailable  
3 once he has --

4 THE COURT: Well, we don't know what he does or won't  
5 do. The question becomes, is how then do they show that it  
6 might not be protected by these -- this engineer? That's the  
7 issue for me. All this other stuff about who did what in New  
8 York or said what, this is their attempt to show that it's not  
9 being protected and it's not because they're relying on people  
10 who have not protected trademarks in the past.

11 MR. ZAHRALDDIN: And, Your Honor, you were talking  
12 about it, is this a character issue or is it an acts issue?  
13 It's an acts issue. And that's something I wasn't able to yet  
14 address and I'd like to discuss it with you.

15 THE COURT: Okay. You believe it's --

16 MR. ZAHRALDDIN: Every single time that you have a  
17 trade -- there is a common fact pattern with trade secret  
18 violations. Trade secrets can't be protected like other parts  
19 of intellectual property. So what normally happens is a bunch  
20 of employees will leave one place, go to the next --

21 THE COURT: Uh-huh.

22 MR. ZAHRALDDIN: -- and then it will be a contract,  
23 and whatever's not covered by contract is covered by the trade  
24 secret laws. Usually the contract contains a non-disclosure  
25 agreement or confidentiality provision. That's the basis for

1 the fact pattern. Oftentimes, it's hard to figure out whether  
2 or not they've actually done this or not.

3 In this case, it's not that difficult to see this  
4 because we have a prior act. And, again, these are the same  
5 engineers that went from Philips to 3D Fusion, then to Stream.  
6 And it was --

7 THE COURT: And then from Stream to where?

8 MR. ZAHRALDDIN: Well, right now they're still  
9 supposed to be with Stream, but they have an interim CEO who's  
10 taken over our subsidiary.

11 THE COURT: Oh, okay. Okay.

12 MR. ZAHRALDDIN: So --

13 THE COURT: So they are now -- whoa, whoa, whoa.

14 MR. ZAHRALDDIN: So they're now at the SC BV.

15 THE COURT: They're at SC BV, who was related  
16 to -- is some --

17 MR. ZAHRALDDIN: It was, yeah, an indirect  
18 subsidiary.

19 THE COURT: -- related to -- to Stream.

20 MR. ZAHRALDDIN: Yes.

21 THE COURT: They are -- I don't know how -- I mean,  
22 I'm not -- nobody's saying they're not related to Stream,  
23 unless you're telling me they're not, Mr. Colby, because I see  
24 you moving around over there.

25 MR. COLBY: They are. Sorry, I'm -- I'm very

1 interested to respond but I'm doing my best to not.

2 THE COURT: The problem, as I see it, is that --

3 MR. ZAHRALDDIN: Your Honor, we had to discipline  
4 these engineers once before. It resulted --

5 THE COURT: I don't want to hear all that.

6 MR. ZAHRALDDIN: No, no. I'm saying it resulted in a  
7 billion dollar claim in this case with Rembrandt.

8 THE COURT: Oh, I -- well -- well, if we're really  
9 going to be frank, they came from Rembrandt and then --

10 MR. ZAHRALDDIN: And they --

11 THE COURT: Ah, ah, ah, ah --

12 MR. ZAHRALDDIN: You're right.

13 THE COURT: They had some association with Rembrandt,  
14 whether they were employees, consultant, something.

15 MR. ZAHRALDDIN: We believe --

16 THE COURT: Wait, wait, wait. And Mr. Rajan, I  
17 definitely recall this, said that when they got sued, they knew  
18 that the people, the engineers that were now related to -- in  
19 the company with -- however they were related to Stream, they  
20 knew that they had some relationship, and he said some other  
21 word, and I think he may have said were engineers at Rembrandt,  
22 but I'm going to use the word association, affiliation, some  
23 relationship with Rembrandt. And during the course of the  
24 litigation, they came to understand that that association was  
25 much more than what they understood.

1 MR. ZAHRALDDIN: Yes, ma'am.

2 THE COURT: Okay? And then -- then -- then, you  
3 know, you kind of -- never mind.

4 MR. ZAHRALDDIN: But that's -- that's exactly it,  
5 Your Honor.

6 THE COURT: But they are now these same engineers who  
7 had some -- at least during the course of the litigation,  
8 according to Mr. Rajan, had some affiliation with Rembrandt,  
9 were now affiliated with Stream and now SC BV and now SeeCubic.

10 So you're now saying these same people who went from  
11 here to here to here to here, we don't believe our -- our  
12 Stream is being protected. That's what I get out of this.

13 MR. COLBY: Understand, Your Honor, a couple of  
14 things. I think this demonstrates why -- two primary points  
15 really. I think this demonstrates why we should limit the  
16 degree to which the parties, the Debtors, are trying to address  
17 their current request for a TRO by litigating issues that were  
18 a part of litigation five years ago, and that was resolved.  
19 Like I said, there are, I'm sure, two sides to that story. I'm  
20 resisting the urge to litigate it here just by --

21 THE COURT: Well, I'm not --

22 MR. COLBY: -- testifying from the podium.

23 THE COURT: -- quite sure that the parties are trying  
24 to litigate it, but go ahead.

25 MR. COLBY: Well -- and so it's -- it's -- I think



1 we'd all be well served by staying focused on, you know, the  
2 current issue at hand, protections around trade secrets at  
3 SeeCubic BV and not trying to relitigate these old claims.

4           Secondly, these -- just -- the -- I'm not sure that  
5 the facts are quite as they've been portrayed, at least in the  
6 following sense. These individuals had been at SeeCubic BV  
7 since 2011. They were at Philips prior to that. There's not  
8 been hopscotching from entity to entity. They've been at  
9 SeeCubic BV since 2011.

10           THE COURT: I'm not saying hopscotching.

11           MR. COLBY: And -- and -- so I -- and then to Mr.  
12 Zahralddin's point about trade secret cases where employees  
13 move from one company to another, that's not happening here.  
14 There's no claim that the engineers are about to leave to go  
15 to --

16           THE COURT: I'm not talking about them leaving, and  
17 I --

18           MR. COLBY: Right.

19           THE COURT: I'm just repeating the history as has  
20 been set forth in this company as to the evolution of these  
21 engineers --

22           MR. COLBY: And --

23           THE COURT: -- and where they've gone -- and where  
24 they started, where they went, and where they are.

25           MR. COLBY: And I'm not sure that that's -- I'm not

1 sure that that evolution is accurate. I don't think it is, but  
2 I'm -- again, I'm trying not to relitigate all that here.

3 THE COURT: Well, you're telling me -- so you're  
4 saying Mr. --

5 MR. COLBY: But they've been at -- they've been at  
6 SC SeeCubic BV since 2011.

7 THE COURT: That's nice.

8 MR. COLBY: The ownership by virtue of this  
9 litigation and the omnibus agreement has changed, but they've  
10 been at SeeCubic BV since 2011. This is not a case where  
11 employees have moved to a new entity or have plans to move to a  
12 new entity. They've been there doing the same work while  
13 people fight about who -- who owns them.

14 THE COURT: Well, I think it's more than they fight  
15 about who owns it. These engineers are engineers. They  
16 probably just want to do their work, leave me alone and then  
17 pay me. Okay? I suspect that's what they want.

18 MR. COLBY: Probably.

19 THE COURT: Okay. But, Counsel, you cannot, unless  
20 somebody's telling me I have a misunderstanding of what the  
21 testimony in -- was here, was that these people were at  
22 Michaels -- I mean at Philips, Philips, Rembrandt claimed they  
23 worked for their predecessor, whatever their name is because I  
24 cannot recall --

25 MR. ZAHRALDDIN: 3D Fusion.

1 THE COURT: -- 3D Fusions, which they said they  
2 didn't, they ended up at Stream, Rembrandt sued Stream saying  
3 these people really work for us and took our technology to you.  
4 I think that was the -- I haven't read the complaint, but based  
5 on the testimony that I've heard, that was what was going on.

6 MR. COLBY: No. There was no trade secret claim in  
7 that case.

8 THE COURT: Whatever -- whatever --

9 MR. COLBY: It was a patent case.

10 THE COURT: Whatever it was, the claim from Rembrandt  
11 is that you took our information and went to Stream with it.  
12 Mr. Rajan's testimony was, during the course of the litigation,  
13 we claim to understand that that was a more -- I'm not sure  
14 what word he used, deeper, maybe, relationship between these  
15 engineers and Rembrandt. And then these engineers ended up at  
16 SC BV. They went from here to here. Sometimes maybe you reap  
17 what you sow.

18 But in any event, these same engineers have had a  
19 relationship with -- with Philips, perhaps with Rembrandt, and  
20 definitely with Stream and Stream's subsidiary -- whatever --  
21 however related company or something. Or they have a  
22 relationship, maybe not directly with Stream, but a company  
23 related to Stream because it's owned by a subsidiary who's a  
24 subsidiary of Technovative, who's owned by Stream, or whatever.  
25 But they're not some unrelated, unknown entity. And that's the

1 course of where they've gone. Okay?

2 And what I'm hearing is Mr. Barenbrug in particular,  
3 you know, said one thing here and we believe he's not going to  
4 protect us because he did this. I don't know if he is or  
5 isn't.

6 So we have spent more time than necessary trying to  
7 figure out whether I'm going to allow Mr. Michaels testify  
8 regarding what Mr. Barenbrug did in a hearing and whether, in  
9 fact, Mr. Baren- -- what he really, I'm sure, wants to show is  
10 that Mr. Barenbrug actually had some sort of -- whatever that  
11 relationship was, and we -- and they -- and that somehow will  
12 show that if Mr. Barenbrug is one of the people who's supposed  
13 to be protecting it, he likely will not. That's what this is  
14 about.

15 And you're saying, who cares what he did in '17.  
16 That didn't mean he's doing it today. Is that what  
17 you're -- even if -- even if we find that what he did in '17 is  
18 correct, what does that have to do with today?

19 MR. COLBY: It's an allegation from 2017.

20 THE COURT: Well, it's an allegation that this is  
21 what he said and we have some document. Again, the question  
22 becomes: Do we just wait until Mr. Barenbrug testifies and  
23 then they confront him with this? And what happens if he  
24 doesn't? How do they then prove that the engineers who were  
25 supposed to be protecting this can't be trusted to protect?

1 Then they go call Mr. Barenbrug? Maybe you call him. I don't  
2 know.

3 MR. COLBY: I think, Your Honor, I mean, that's part  
4 of the problem with the -- that's part of the problem with  
5 where we are on this request for injunctive relief to begin it.  
6 It's incumbent upon the Debtors to establish that there is a  
7 serious risk of irreparable, imminent harm and -- and they  
8 really have not, other than Mr. Rajan's sort of say-so, they've  
9 really not put forth any evidence that there is a lack of  
10 protections around the trade secrets at --

11 THE COURT: Well, they want to with the information  
12 about Mr. Barenbrug.

13 MR. COLBY: And -- and the idea that somebody was on  
14 the receiving end of allegations related to a patent seven  
15 years ago, therefore, warrants immediate injunctive relief now  
16 is what I'm suggesting, it's insufficient, it's not relevant.  
17 We should be focused on what's here.

18 THE COURT: Well, we're not -- okay.

19 MR. COLBY: Or we're going to end up relitigating the  
20 2017 case --

21 THE COURT: Well, we're not relitigating anything.

22 MR. COLBY: -- and the history of the employees and  
23 why they left Philips and the fact that Philips was getting out  
24 of business. I mean, there's a whole other --

25 THE COURT: I don't need to know -- the whole point

1 of the matter is the history is what the history is, and I'm  
2 going to -- I'm going to see it the way I see it. And that's  
3 just the way it is.

4 MR. ZAHRALDDIN: Your Honor, we're not trying to show  
5 any of that. We just want to show that we have two documents,  
6 one of which has already been partially discussed where Mr.  
7 Barenbrug says under oath A, B, C, D, E, and F. And --

8 THE COURT: And what relevance does it have --

9 MR. ZAHRALDDIN: It's relevant because, Your Honor,  
10 unfortunately, maybe Mr. Colby doesn't remember his own  
11 comments from 10 minutes ago, he says this was not a trade  
12 secret case. As I explained, all trade secret cases are  
13 non-disclosure agreement contract disputes unless you're going  
14 under the statute, one statute of which had no private right of  
15 action and didn't exist at that time, which is a defend trade  
16 secret act. You have trade secrets that you go under state law  
17 under statute and then you always have a contractual dispute.  
18 That is what was focused on in this case. So it was  
19 completely -- all that was left was a trade secret case. So  
20 this is completely -- maybe a failed --

21 THE COURT: Inaccurate description.

22 MR. ZAHRALDDIN: An inaccurate description. So what  
23 we're simply trying to do is show that this was an act by this  
24 engineer who is now here, and I'm going to give him the benefit  
25 of the doubt even though --

1 THE COURT: Even -- no. No comment.

2 MR. ZAHRALDDIN: He doesn't know who he's supposed to  
3 be listening to at this point. We don't even know if we can  
4 call him since he's one of our employees, because we have an  
5 interim director over there at this point in time.

6 THE COURT: Well, apparently the interim director  
7 didn't -- couldn't force them to testify.

8 MR. ZAHRALDDIN: Apparently.

9 THE COURT: Apparently he couldn't because the only  
10 reason they agreed to testify was because their personal  
11 attorneys -- personal attorneys directed them to do so, which  
12 is why I was a little irate because I couldn't understand why,  
13 if these parties were so -- wanted to bring these people, why  
14 they didn't go to the company and ask the company.

15 MR. ZAHRALDDIN: And the --

16 THE COURT: I already said what I was going to.  
17 Don't get me started on that again.

18 MR. ZAHRALDDIN: I just don't know who their personal  
19 attorneys are, Your Honor.

20 THE COURT: I don't know either. I have no -- and I  
21 was assured that their personal attorney was not the company's  
22 attorney.

23 MR. ZAHRALDDIN: Or SeeCubic's attorney or  
24 Mr. Stastney's attorney or anybody else.

25 THE COURT: Well, I didn't know --

1 MR. ZAHRALDDIN: We weren't sure of any of those  
2 things.

3 THE COURT: -- that they were there -- they weren't  
4 the company's. I didn't ask anybody if they were  
5 Mr. Stastney's. I didn't ask anybody if they were SeeCubic  
6 Inc.'s. I didn't ask anybody if they were Hawk's, SLS, or  
7 anybody else's attorney. I understood that they were their  
8 personal attorney, having nothing to do with any of the  
9 parties, and that they had engaged their own counsel for their  
10 own reason. I guess they felt they had to, whatever, given  
11 what was going on in the Netherlands. That is what I  
12 understood.

13 I'm not going to rehear that because I'm just going  
14 to be a little more annoyed and I -- I -- the way I am is I say  
15 what I have to say the day I say it. You come back and talk to  
16 me tomorrow and I'll be going, well, that was yesterday, and I  
17 want to leave that for last Wednesday.

18 MR. ZAHRALDDIN: I've -- I wholeheartedly agree. And  
19 we simply want to be able to show what was done by the prior  
20 engineers. It happens to be it's also Mr. Barenbrug. And we  
21 also have information as to why he doesn't want to come here.  
22 It has nothing to do --

23 THE COURT: Well, I don't know why he don't want to  
24 come. That has nothing to do with whether you get to put in  
25 the information about who's supposed to be protecting this -- I



1 don't know what you guys want to call it now. Trade secrets,  
2 is that --

3 MR. ZAHRALDDIN: It's intellectual property. It's  
4 our intellectual property.

5 THE COURT: I said IP but I was heard -- said no,  
6 it's trade secret. I don't know what --

7 MR. ZAHRALDDIN: It's --

8 THE COURT: Whatever it is, the asset, I'm going to  
9 call it the asset of the Debtor that you're trying to protect,  
10 which I understand, I'm sure there's a disagreement, but what  
11 I'm hearing, that the Debtor has a license with Rembrandt and  
12 that's the asset the Debtor wants to protect.

13 MR. ZAHRALDDIN: As well as our trade secrets which  
14 are --

15 THE COURT: Whatever else that is.

16 MR. ZAHRALDDIN: On top of that, yes.

17 THE COURT: But that's the asset. And you believe  
18 it's not being protected because the people in charge of  
19 protecting it -- which, really, I'm not sure how the engineers  
20 are in charge because they're going to do what they're told.

21 MR. ZAHRALDDIN: That's not --

22 THE COURT: They're not the ones running out here  
23 supposedly licensing this.

24 MR. ZAHRALDDIN: No. But that's the problem, Your  
25 Honor. That's what they've seen. Mr. Theune and all the other

1 folks are all engineers.

2 THE COURT: I don't want to hear about them.

3 MR. ZAHRALDDIN: They're all engineers, though, Your  
4 Honor. There's nobody running the place other -- it's been in  
5 limbo --

6 THE COURT: Well, somebody's --

7 MR. ZAHRALDDIN: -- during this dispute.

8 THE COURT: -- in charge of this company.

9 MR. ZAHRALDDIN: The engineers are in charge. There  
10 is no other person who's there.

11 THE COURT: Mr. Stastney is there. Now, is he  
12 direct -- supposed to be directing them?

13 MR. ZAHRALDDIN: Well, we can -- we can discuss  
14 that --

15 THE COURT: Ah, ah, ah. I didn't --

16 MR. ZAHRALDDIN: Not now but we can discuss it when  
17 it comes up.

18 THE COURT: When Mr. Stastney come up here and  
19 testify, you can ask him whatever.

20 MR. ZAHRALDDIN: That's exactly what I'm going to do.

21 THE COURT: But I'm -- that's not my point. My point  
22 is, are these people the people running the company, Mr.  
23 Barenbrug?

24 MR. ZAHRALDDIN: They certainly would be the ones who  
25 would have access to the technology and access or ability to

1 open up the technology to other people --

2 THE COURT: Why would they do that? They're not  
3 running the company.

4 MR. ZAHRALDDIN: Because that's what was -- the  
5 testimony was let's go to Hyundai (phonetic) and theirs is an  
6 open kimono business plan. They give them --

7 THE COURT: But that's a company.

8 MR. ZAHRALDDIN: Excuse me, Your Honor?

9 THE COURT: That's the company. How does that --

10 MR. COLBY: That also wasn't the testimony.

11 THE COURT: Well, okay. Well, maybe you mis -- mis  
12 --is there such a word as misremembering? Probably not but I'm  
13 going to use it anyway because my kids use it all the time. I  
14 misremembered.

15 Yeah, okay. But that's the point. We have spent  
16 more than enough time on whether I -- I could have just said  
17 I'll allow it for what it's worth, and whether I'll consider  
18 it, I don't know. I think that's probably what I should have  
19 done, because we have already spent I don't know how much time  
20 trying to figure out whether I'm going to allow this for what  
21 it's worth, which may be nothing.

22 And, you know -- and, Counsel, I think that's going  
23 to be typically my approach, is I'll allow it for what it's  
24 worth, whatever weight I think it is I'll give it, and if  
25 somebody thinks I shouldn't have, because somebody is not going

1 to like what my -- somebody's not going to like my decision and  
2 so, dimes to doughnuts, somebody's going to -- well, I don't  
3 know if you can do one on a -- but at some point appeal and you  
4 want to preserve the record. I get it. And that's why I'm  
5 being very cautious about my evidentiary rulings because I know  
6 this is what -- this is not even for me. This is for the  
7 district court. Let's call it like it is. Okay. And so now  
8 that we have spent --

9 Jon, what time we started talking about this? Do you  
10 keep track of time? Well, we know it was before Mr. Sutton  
11 (phonetic) returned --time you got back.

12 UNIDENTIFIED SPEAKER: It was one --

13 THE COURT: No, two.

14 MR. CAPONI: One thing we probably all agree on is  
15 that we spent some time on this, Your Honor.

16 THE COURT: Yes. Too much time. So I'm going to do  
17 what I should have done at the beginning. I'll allow it for  
18 what it's worth, which may be nothing. I may give no weight to  
19 it.

20 UNIDENTIFIED SPEAKER: But --

21 THE COURT: Who's saying "but" over here? Did I hear  
22 somebody say something?

23 UNIDENTIFIED SPEAKER: No. No, ma'am.

24 THE COURT: All right. Who's talking?

25 UNIDENTIFIED SPEAKER: Here's some information.

1 THE COURT: No thank you. My watch is going to give  
2 me information on Adco (phonetic) records.

3 UNIDENTIFIED SPEAKER: Oh, Adco --

4 MR. CAPONI: Your Honor?

5 THE COURT: Uh-huh?

6 MR. CAPONI: Sorry. Logistically, what time do you  
7 think we'll be going to today and would this be an appropriate  
8 time to take a break so no one gets angry?

9 THE COURT: Well, I did take a snack when I went  
10 back.

11 MR. CAPONI: Okay.

12 THE COURT: Because I had to deal --

13 MR. CAPONI: I was talking about Mr. Colby, not you,  
14 Your Honor.

15 THE COURT: No. I -- I have -- I have recognized  
16 that I can be -- which I accuse my kids of being hangry.  
17 Apparently, I have the same trait. And I thought I was doing  
18 pretty good. I haven't gotten angry today. But I also walked  
19 a mile and a half this morning before I came in here to set the  
20 tone. So that would be fine.

21 I also probably can go late. I just have to confirm  
22 that -- not with -- I need to confirm with the CSOs how late  
23 they want us in here. You know, I went to midnight. They were  
24 very unhappy with me. So I don't plan to do that. Okay.  
25 Extremely unhappy. So we can -- we need to go 6, 6:30, I need

1 to confirm with them first. That's not a problem because I  
2 made my schedule so that was a possibility.

3 And we still haven't even finished Mr. Michaels. And  
4 then we have to do Mr. Stastney, which we have not -- I  
5 don't -- I think our schedule did not -- I think our next  
6 hearing on this is with the two Zoom witnesses; right?

7 MR. COLBY: Yes, ma'am. And we're waiting for the  
8 other side to provide some dates, is my understanding.

9 THE COURT: But we didn't have a continued date from  
10 today.

11 UNIDENTIFIED SPEAKER: Correct.

12 MR. COLBY: Correct. Correct, Your Honor.

13 THE COURT: You guys think about that, okay,  
14 about -- because there's no way we're going to get through  
15 Mister -- unless you have five minutes for --

16 MR. COLBY: I actually don't expect to be long with  
17 Mr. Michaels.

18 THE COURT: But I don't expect we're going to finish  
19 Mr. Michaels and Mr. Stastney today, are we?

20 MR. COLBY: I don't know. It depends, I suppose, on  
21 how much cross for Mr. Stastney. I don't -- Ms. Brumme's  
22 actually going to handle Mr. Stastney as a witness.

23 THE COURT: Oh, the boss is going to handle it;  
24 right? Right. Okay.

25 So what I would suggest is you guys think about some

1 dates in the events we do not get through Mr. Stastney's  
2 testimony. We already -- what date do we have -- we don't have  
3 dates for the Zoom people -- I'm calling them the Zoom people.  
4 The Netherlands folks we don't have. And it's almost December.  
5 I -- I'd like to at least rule on this if I have to while in  
6 the same time striving to get the other -- working on that.

7 MR. ZAHRALDDIN: And, Your Honor, we also have a  
8 rebuttal witness to their engineers as well, Mr. Banergy  
9 (phonetic), which I need to get names for. So we mentioned him  
10 on Wednesday as well. But he would be remote. He would be by  
11 Zoom as well.

12 THE COURT: I get it as -- the thing about remote, we  
13 can do it in -- we don't need a whole day. If you say, I want  
14 to do this witness from 12 to 6, we can do that. The problem  
15 is, is that, and I'm not sure -- you know, I have allowed one  
16 attorney to -- with all the witnesses here because she had  
17 medical issues.

18 When I was talking, when we were trying to look  
19 through the logistics, it's not going to work for half of us to  
20 be here and half of the attorneys on Zoom. It just,  
21 logistically, is not going to work. I know we have two of  
22 these things, but I don't -- we can't do that. I have two at  
23 one time. The old one and the new one. Or might have bought  
24 -- is this the one we're sharing with everybody?

25 THE CLERK: Yes. What -- what do you mean two to

1 have?

2 THE COURT: Like half the people on one screen, half  
3 on another.

4 THE CLERK: I mean, in theory, there would just be  
5 another bubble on the -- on the screen.

6 THE COURT: I know. They told me that that's not  
7 going to work. Never mind.

8 So, in theory, I thought about it but it didn't make  
9 sense. But, you know, I don't know if people want to just keep  
10 running to Philadelphia for a half a day. That's the -- I  
11 mean --

12 UNIDENTIFIED SPEAKER: Understand.

13 THE COURT: You know, but if that's the way it's  
14 going to work, maybe you do it two afternoons so you come in on  
15 the Monday, you're doing Monday afternoon, you stay overnight,  
16 you do it Tuesday afternoon, we're done. Instead of the other  
17 way. So think about all of that.

18 And, again, I'm going to tell everybody, Ms.  
19 Godfrey's gone December 31st and I'm not quite sure -- you  
20 know, she had 30 years as a courtroom deputy so whoever's new  
21 is not going to have any experience. Not saying they're not  
22 going to do a good job. I'm sure whoever is going to do a  
23 great job. I'm just saying you're going to have to be patient  
24 at that point.

25 Okay? All right. We'll go in recess. Let's say



1 3:15, unless you guys need longer to run and get something to  
2 eat. Around here, I don't know what they have now. Chinatown  
3 but that's kind of far. What do they have?

4 UNIDENTIFIED SPEAKER: Not for a half an hour.

5 MR. CAPONI: 3:30?

6 THE COURT: 3:30. 45 minutes. If you need longer,  
7 just come back. Court is in recess until 3:30.

8 UNIDENTIFIED SPEAKER: Thank you, Your Honor.

9 UNIDENTIFIED SPEAKER: Thank you, Your Honor.

10 (Recess taken)

11 THE CLERK: All rise.

12 THE COURT: Please be seated.

13 Okay. We left with Mr. Michaels going to be examined  
14 regarding Exhibit 84 and whatever else. And again, I reserve  
15 to give it whatever weight, if any, with respect to these  
16 matters.

17 All right. And with respect to the issue of  
18 addressing the issue of a preliminary injunction, what it says  
19 is well-established that a preliminary injunction is  
20 customarily granted on the basis of procedures that are less  
21 formal and evidence that is less complete than in a trial on  
22 the merits.

23 So I mean, at this point, I am not even sure if we  
24 are talking about, really talking about a TRO because a TRO --

25 Oh, is that rain? I know it couldn't be rain.

1 MR. COLBY: It looks like the 4:15 is a little early.

2 THE COURT: I am like, it can't be rain.

3 You know, in my experience, which is, you know, for  
4 what it is worth, when I needed a TRO, I had a hearing in the  
5 morning and I had a decision by the afternoon, at most, the  
6 next day.

7 This hearing, this has been going on since October  
8 6th. Is this really a TRO or are we doing a -- what are we  
9 doing that -- you know? And so that is why I am kind of, you  
10 know, is this really a temporary restraining order? Is this a  
11 TRO, a permanent? What exactly are we doing here? That is  
12 sort of my question.

13 When you said to me that a preliminary injunction is,  
14 you know, you don't have all of the niceties with a formal  
15 final trial. But we are doing that. I mean, I don't know.

16 Mr. Zahralddin, you stood up, so you tell me.

17 MR. ZAHRALDDIN: Well, Your Honor, certainly I agree  
18 with you that a TRO would have been a lot nicer earlier on. I  
19 think we have probably had enough evidence for a preliminary  
20 injunction. But certainly, a permanent injunction would have  
21 required a much higher standard in discovery, I would imagine.

22 But I do think that the case law that we presented  
23 discussed both preliminary injunction and TRO as having a  
24 little bit of an easier evidentiary process, so to speak,  
25 because you are trying to do your best to prevent harm that we

1 believe is imminent to give us time to preserve whatever the  
2 status quo is we are protecting, up until we get to see whether  
3 or not we, you know, warrants a --

4 THE COURT: Uh-huh.

5 MR. ZAHRALDDIN: -- permanent injunction, yeah.

6 Plus, you have the overlay in this case of a lot of  
7 the same activity, we believe, are violations of the automatic  
8 stay. Which again, you know, I have discussed with you before,  
9 I think at the --on the conference, and I floated it out to  
10 other folks too, in some very brief preliminary discussions,  
11 nothing too deep, that a lot of the same evidence is applicable  
12 to sanctions and/or any sort of other finding of actual  
13 violations of the stay. So I agree with you. I think, you  
14 know, we should have already had the benefits of the automatic  
15 stay here.

16 THE COURT: Well, you already have the benefits of  
17 the automatic stay.

18 MR. ZAHRALDDIN: Yeah, well, it doesn't seem like it.  
19 We have people going into other courts in other places. We  
20 have presented case law that indicates that even if it is a  
21 non-debtor subsidiary, if anything happens in those  
22 subsidiaries that would affect the distribution in this case,  
23 both the technology and the money owed to Stream from the  
24 subsidiary qualify for that. We have people going in to the  
25 trademark office, not --

1 THE COURT: Yeah, but I didn't have that until today,  
2 so.

3 MR. ZAHRALDDIN: Well, that is -- that happened,  
4 because it only happened two weeks ago, that there was --

5 THE COURT: Oh, so even if I had issued it,  
6 supposedly, I had granted it. I am not saying I would, I am  
7 not saying I wouldn't.

8 MR. ZAHRALDDIN: I --

9 THE COURT: But had I, that wouldn't have been  
10 evidence that I would have -- but the whole point of the matter  
11 is, I am sort of thinking this through. And where, I mean, is  
12 this really a TRO at this point?

13 MR. COLBY: Your Honor, I think the fact that seven  
14 or eight weeks have gone by since it was first filed, and no  
15 calamity has befallen the Debtor's assents belies, you know,  
16 belies the purported basis for it in the first place. There is  
17 no imminent irreparable harm.

18 THE COURT: Or maybe people stopped doing what they  
19 were --

20 MR. COLBY: It was supposedly about the --

21 THE COURT: But Counsel, it could be that people  
22 stopped doing what they were doing. I don't know.

23 MR. COLBY: Well, there was a --

24 MR. ZAHRALDDIN: Well, I am sorry, I didn't --

25 THE COURT: No, no, it is Mr. Colby's turn.

1 MR. ZAHRALDDIN: -- I didn't realize because he is  
2 behind me.

3 MR. COLBY: The Debtors came through the door raising  
4 hue and cry about a threat to the Philips license. And that  
5 just doesn't -- hasn't panned out. I think there is sufficient  
6 record to deny the request.

7 In terms of whether or not this could be a permanent  
8 injunction, that would require discovery. And in my -- and so  
9 I don't think that is appropriate now. And in my experience, a  
10 preliminary injunction also incorporates some discovery into  
11 the process. And I think it makes no sense whatsoever to begin  
12 that process now. The Debtors have the burden here.

13 THE COURT: Well, a preliminary --

14 MR. COLBY: The Debtors have the burden here, and  
15 they failed to demonstrate --

16 THE COURT: Well, I don't know what they failed to do  
17 or not --

18 MR. COLBY: --any need --

19 THE COURT: -- failed to do at this point.

20 MR. COLBY: -- for this.

21 THE COURT: I don't know. My question simply was  
22 where do the parties believe we are? And the case law that  
23 they gave me said that in a preliminary injunction, it is  
24 customarily granted on the basis of procedures that are less  
25 formal, and evidence that is less complete than a trial on the

1 merits. And we have been treating this sort of like a trial on  
2 the merits as opposed to a preliminary hearing on whether I  
3 should issue, well, first the TRO, I don't know about whether  
4 that is where we are, or whether I should issue a preliminary  
5 injunction.

6 And so that really, I mean, I have been thinking  
7 about this all along, having nothing to do with the issue of  
8 the level of evidence or the issue of hearsay about  
9 particularly where we are given the length of time that has  
10 expired in terms of the hearing that started on October 6th.  
11 It is almost going to be 60 days later. I am not sure whether  
12 a -- you know, TRO is like, you get it right then and there.  
13 This sort of morphed into this something beyond that. So I  
14 mean, I don't know if that is what I am really looking at or  
15 looking at a preliminary injunction. I don't know, I guess I  
16 will have to figure that out.

17 But whether it is a TRO or a preliminary injunction,  
18 the case law seems to suggest that hearsay and a less stringent  
19 evidentiary standard is allowed in a preliminary injunction  
20 TRO. So that really went to two different things. One was the  
21 evidentiary record, and the other was just what are we doing  
22 here? Because this isn't something that I am just thinking of  
23 now. I have been saying for a bit now, like, what exactly are  
24 we doing?

25 So with respect to the evidence, the Third Circuit

1 has said what it said with respect to the stringent evidentiary  
2 rules, either in the TRO or preliminary injunction. This is  
3 not a hearing on a permanent injunction, clearly. So with  
4 respect to that, I think the rules are not as stringent, which  
5 is why I said, you know, I had already read this case while we  
6 were taking, which is I said I will, you know, I will allow it  
7 for what it is worth and give it whatever weight.

8 But at some point, we have to get this done because I  
9 will be -- you know, I don't know. I have only heard one side,  
10 you know? And sometimes, you only hear one side. Well, in the  
11 ex parte, you get it without anybody's -- you just get it on  
12 the papers. But typically, you know, you come in, you make  
13 your arguments. The other party makes theirs, and then the  
14 judge, you know, gives you a TRO and then schedules, if  
15 necessary, or you know, within whatever the time period is for  
16 a preliminary injection. But mine were always simple.

17 MR. COLBY: Yeah. Your Honor, I mean --

18 THE COURT: They weren't this complicated.

19 MR. COLBY: And one of the consequences of this, and  
20 I think, again, it speaks to the, really, a basis for denying  
21 the request is that the purported basis for it, the longer this  
22 goes on, it keeps shifting.

23 So initially, it was all about the Philips license.  
24 There was a passing reference to trade secrets in the initial  
25 papers. Mr. Rajan's declaration said nothing about concern

1 about the security of trade secrets. If it was that mission  
2 critical, that important, you would think he would have brought  
3 it to the Court's attention, and he didn't.

4 Then, when Mr. Stastney testifies as part of their  
5 case, and he is asked over and over again, so you are not about  
6 to issue a sublicense? You are not about to issue a  
7 sublicense? He said no, we have demonstration projects that  
8 are months from being completed. Then, the customer decides if  
9 they want to do it. Then, we have to talk about what that  
10 might look like. And so that whole basis for this motion was  
11 what had zero evidentiary support, and it could have been  
12 denied then. We have now moved to this trade secret issue, and  
13 that wasn't really part of the --

14 THE COURT: Was the trade secret never referenced or  
15 it was --

16 MR. COLBY: There was a passing reference.

17 THE COURT: It was referenced?

18 MR. COLBY: It was referenced. But again, if it was  
19 such a critical thing, you would think it would have merited a  
20 sentence or two in Mr. Rajan's declaration that he had some  
21 concerns about the security of trade secrets. So now, we are  
22 litigating that issue. And there is no evidence --

23 (Phone system chiming)

24 THE COURT: Are we getting more people?

25 MR. COLBY: There has been no evidence about what the



1 specific trade secret protections are or are not at SCBV  
2 (phonetic) right now.

3 THE COURT: Oh, this is Mister --

4 MR. ZAHRALDDIN: Michaels.

5 THE COURT: No, Mr. Rajan's --

6 MR. ZAHRALDDIN: Mr. Rajan did testify, yeah.

7 THE COURT: -- testimony was that there is some,  
8 based on his observation, he believes --

9 MR. COLBY: In April.

10 THE COURT: It doesn't matter.

11 MR. COLBY: Well --

12 THE COURT: Well, you know, have they changed? He  
13 believes that it is what it is. Not -- will you tell me there  
14 are some things I am not concerned about? I will tell you  
15 frankly, all of you, there are. And somebody better have a  
16 good explanation why I shouldn't be concerned.

17 So while this may have morphed into some other  
18 things, and whether whatever, maybe this was better in  
19 violation of a state litigation., I think what I understood  
20 prompted this was Mr. Stastney's testimony at the hearing in  
21 the Dutch court, for which we have no transcript. A transcript  
22 would have ended all of this. It would have said what he said  
23 or what did not say. It is a he said/she said, well, maybe he  
24 said/he said, in this case.

25 And so yes, while it has gone from we are going to

1 lose our license because Mr. Stastney has testified that he  
2 plans to license this, and that he is not protecting our  
3 assets. That is pretty much what I was hearing.

4 And now, it is like he didn't protect it because they  
5 aren't using some sort of whatever term it is.

6 (Phone system chiming)

7 MR. COLBY: It is blocked, Your Honor. They encrypt  
8 the algorithm.

9 THE COURT: If it is not encrypted or whatever. You  
10 are going to bring somebody to say it is, so it's protected.  
11 Therefore, we don't need an injunction because we're not. We  
12 have Mr. -- you know, we have all of this other,  
13 notwithstanding Mr. Stastney's testimony that he is not going  
14 to license, there is evidence that he said he would. Now, is  
15 he doing it? I don't know.

16 Okay. I am just telling you what I have seen. I  
17 haven't heard Mr. Stastney's explanation in response to any of  
18 this stuff, other than his original testimony.

19 MR. COLBY: Correct, yeah, which I think addressed  
20 that squarely.

21 THE COURT: Okay. And so that, to me, is some  
22 issues. And then, there are some other issues about what they  
23 are doing, who they are doing it with, and whether they like  
24 it. Whether you guys like it or not, there is a license that  
25 was granted by someone else to the Debtor. And I don't think

1 anybody is arguing that Rembrandt licensed something to the  
2 Debtor. There may be a dispute over what that license entailed  
3 and what it allowed the Debtor to do with it. But it is clear,  
4 whatever that license was or is, SCBV did not just come out of  
5 nowhere. It didn't. There is a -- it used that license,  
6 whether it was authorized, unauthorized, given to them,  
7 whatever. Okay? That is not disputed.

8           What I think you guys, is well, we took it and we did  
9 something else with it. I am not a IP lawyer. I don't know  
10 how IP works. I mean, I have an idea, but I have never been  
11 involved in IP litigation. I know in bankruptcy what it means  
12 in terms of use and reject, and all of that other stuff. But I  
13 can tell you, at some point, this is either assets that the  
14 Debtor has and the Debtor did something with the license, or it  
15 didn't. Because there is no dispute that the Debtor had some  
16 kind of license. What the Debtor did with that license and  
17 what other parties did with it thereafter, that is all you guys  
18 are all fighting about. That is what you are fighting about.

19           But at the end of the day, the license originated  
20 with the Debtor. It means something. And what somebody did  
21 with it or improved on it, if it originated with the Debtor, it  
22 is an asset of the Debtor that the Debtor has done something  
23 with or hasn't done something with.

24           And so to that extent, I will tell you, if anybody is  
25 doing anything with assets that belong to the Debtor's estate,

1 we are going to have a problem. That is just the bottom line.  
2 I don't care how it got to me. I don't care if he mentioned it  
3 first day, second day, fourth day, eighth day. If you are  
4 doing something that you are not supposed to be doing with an  
5 asset that belongs to the Debtor, you have a problem. And I  
6 don't care whether we call it TRO, preliminary injunction, it  
7 is not permanent, that is where we are.

8           And so they are saying they mean, SCB -- SeeCubic's  
9 -- we are not doing anything with the assets of the Debtor,  
10 nothing. We are not selling it, we are not doing anything. We  
11 are -- everything is for the benefit of whoever ultimately gets  
12 it. That is what I am hearing. And so at the end of the day,  
13 you guys need to give me what I need to figure out what is  
14 going on with these assets. Either they are being protected or  
15 they are not, are they are being licensed or they are not? Are  
16 they being used by somebody else or they are not? That is what  
17 the issue is for me. And all of this third-party, sixth-party,  
18 whatever, that is what I am focusing on. And I think  
19 sometimes, in the heat of the battle, you guys forget what it  
20 is that I need.

21           MR. COLBY: If I might, Your Honor?

22           MR. ZAHRALDDIN: Can I speak for one second?

23           MR. COLBY: We have directly addressed the question  
24 about licensing in Mr. Stastney's first testimony when he was  
25 called by the Debtors.

1 THE COURT: Uh-huh.

2 MR. COLBY: And there has been no -- and the  
3 statement was that they are doing the development projects.  
4 The work that they are doing, it is happening at SeeCubic B, as  
5 has always been the case, and that any of those proof of  
6 concept projects aren't complete. And any potential future  
7 licensing, parallel licensing, sublicensing, whatever it may  
8 be, is well off in the future if it is going to happen at all.  
9 That is the testimony so far. There is no testimony contrary  
10 to that, and no evidence contrary to that other than documents  
11 from 2022 --

12 THE COURT: Well, what about 2023?

13 MR. COLBY: -- when the situation was entirely  
14 different.

15 THE COURT: Well, they have got the -- there is a PMB  
16 or PPM from 2023.

17 MR. COLBY: There --

18 THE COURT: I don't recall what it says.

19 (Phone system chiming)

20 MR. COLBY: There is a subscription agreement which  
21 simply has representations about the existence of lawsuits and  
22 whether or not they would --

23 THE COURT: I don't recall what it says.

24 MR. COLBY: Right.

25 THE COURT: And I mean, I was -- I said I don't know.

1 MR. COLBY: So that was not a 2023 statement about  
2 licensing. There is nothing in there about licensing.

3 THE COURT: I don't recall. I am going to take the I  
4 don't recall, because I was wondering about did they say that  
5 it is disputed, what did we do? But all of that, to me, I have  
6 the Debtor saying this, that -- and Mr. Stastney saying  
7 whatever he said. And then they are saying well, no, based on  
8 these things, we don't believe -- this is our contradiction to  
9 his testimony, and that we think you should also look at these  
10 things, because we don't think you should believe Mr. Stastney.  
11 We don't think you should believe him because whatever, for  
12 whatever reason.

13 MR. COLBY: Right. And those things are the PPMs  
14 from 2020 and 2022, where first of all, they are old. So they  
15 don't speak to any potential immediate irreparable harm. And  
16 secondly, those came into existence during a period of time --

17 THE COURT: I know when they came in.

18 MR. COLBY: -- prior to --

19 THE COURT: Uh-huh.

20 MR. COLBY: -- the Supreme Court case. So --

21 THE COURT: When was the Supreme Court decision?

22 MR. KODOSKY: June 15th, 2022.

23 MR. COLBY: June.

24 MR. ZAHRALDDIN: June 15th, 2022, Your Honor.

25 MR. COLBY: And the PPM is dated Q1 -- or Q2 2022.

1 MR. KODOSKY: And the trademark application was  
2 October of --

3 THE COURT: To say --

4 MR. COLBY: We haven't gotten to the trademark  
5 application yet.

6 THE COURT: Yeah, because that is --

7 MR. COLBY: I am just --

8 THE COURT: Counsel?

9 MR. COLBY: Yep.

10 THE COURT: They are what they are.

11 MR. COLBY: Yep.

12 THE COURT: And I need an explanation.

13 MR. COLBY: Yep.

14 THE COURT: And it better be a good one.

15 MR. COLBY: Yep, yep. And so there will be. I am  
16 just simply focusing on, you know, this issue about Philips.

17 THE COURT: So where we are now is that we have a  
18 claim that SeeCubic, Inc. and all of these other people are  
19 causing irreparable harm to the Debtor. Mr. Rajan has  
20 testified that, you know, they are not protecting them, they  
21 are not doing this. That is why you are bring Mr. Barenbrug.

22 MR. COLBY: Barenbrug, correct.

23 MR. ZAHRALDDIN: Right. If there was no evidence,  
24 there would be no need to rebut them with Mr. Barenbrug.

25 THE COURT: Well, there is evidence and they are

1 going to try to rebut it.

2 MR. COLBY: Yep.

3 THE COURT: And then, there is the evidence of all of  
4 this trademark stuff, all of this other things, the website.  
5 All of those things are evidence to say don't believe Mr.  
6 Stastney because he is saying different things over here. So  
7 there is evidence, Counsel. I am not going to say there is  
8 not, because their -- what they have tried to do, is put  
9 evidence -- they called Mr. Stastney as a cross, but they have  
10 put in all of this other stuff, don't -- Judge, don't believe  
11 him. He is not credible because look at all of these other  
12 things he is doing.

13 MR. ZAHRALDDIN: Your Honor --

14 MR. COLBY: Right.

15 THE COURT: Okay. So that is sufficient for me to  
16 say okay, now what do I do with it? So I didn't intend to come  
17 out here and do a colloquy with Counsel about where we are, but  
18 I am just trying to get your guys to focus.

19 MR. COLBY: Yes.

20 MR. ZAHRALDDIN: I understand that, Your Honor. And  
21 let me just say, because there was a lot, and I am not going to  
22 respond to everything. I mean, there was a nice final argument  
23 that he made, and we are going to leave that alone.

24 But I am going to say this. You asked when did all  
25 of this happen and what is it we are worried about? Mr.



1 Stastney, SeeCubic, Hawk, anyone who is involved as a creditor  
2 in this case, should not be touching anything that is a  
3 Debtor's asset. Nothing. And we have been begging for help  
4 since April. It didn't just happen, it has been continuing.

5 THE COURT: Well, then why didn't -- well, we are  
6 where we are.

7 MR. ZAHRALDDIN: I understand that. I understand  
8 that. But to say oh, just forget about everything that has  
9 happened, et cetera. Our rights are rooted under *Butner* and  
10 our state law rights. And the state law right now, and the  
11 Federal Bankruptcy Law says everything should have been turned  
12 over to us. Then, if they want to do something with it, and  
13 that is Stream, what Stream owns. Then, if they want to do  
14 something, they can come in. They can file state relief  
15 motions. They can object to our plan. They did none of that,  
16 and that is the problem.

17 THE COURT: So you are -- you basically want me to  
18 say stop doing what you are doing with all of that. And that  
19 is how I am looking it is, is there going to be irreparable  
20 harm to the Debtor?

21 MR. COLBY: Right.

22 THE COURT: And this proof of concept stuff, I get  
23 it. You know?

24 MR. ZAHRALDDIN: I will get to it here.

25 THE COURT: Don't interrupt me.

1 MR. ZAHRALDDIN: I won't interrupt you, I am just  
2 saying --

3 THE COURT: I love to interrupt people, but I get to  
4 interrupt. I do it all the time.

5 MR. ZAHRALDDIN: I know, I know.

6 THE COURT: I am working on it, but I am not getting  
7 good at it. Maybe by the end of my -- maybe when I finish my  
8 sentence, well, sooner, I guess. Maybe by that time ,I will  
9 have gotten not to interrupt. But the point I am making is  
10 that if, in fact, these license -- whatever this process is,  
11 gets out, it is not going to be for the benefit of any -- even  
12 if it ultimately belongs to the secured creditors, okay?

13 MR. COLBY: Right.

14 THE COURT: If it gets out into the general world,  
15 public, whatever word you want to use, it is going to be worth  
16 zero.

17 MR. COLBY: Well --

18 THE COURT: Because everybody else will have access  
19 to it.

20 MR. COLBY: Right. And Your Honor, I think that  
21 speaks to, frankly, an issue I have with the basis of this  
22 motion in the first place. As Mr. Stastney previously  
23 testified, it is in the secured creditors' interest to preserve  
24 this value. It is in the secured creditors' interest --

25 THE COURT: Yeah, but it is also --

1 MR. COLBY: -- to have SCBV be successful.

2 THE COURT: Uh-huh.

3 MR. COLBY: And to have technology that has value and  
4 isn't, you know, stolen by others.

5 THE COURT: I get that. But it is also SCB -- SB --

6 MR. ZAHRALDDIN: SCBV.

7 THE COURT: -- SCBV to the extent it operates, it is  
8 supposed to be for the benefit of who ultimately gets it. And  
9 nobody is supposed to be doing things that does not benefit  
10 both the Debtor and the Secured Creditor.

11 MR. COLBY: Right.

12 THE COURT: And so I don't know how much of that is  
13 preferring one over the other.

14 MR. COLBY: Yeah, we are --

15 MR. ZAHRALDDIN: Your Honor, you are also  
16 forgetting --

17 MR. COLBY: We are highly aligned --

18 MR. ZAHRALDDIN: -- you are also forgetting the  
19 unsecured creditors because the unsecured creditors do not  
20 benefit from the secured creditors walking away and reinstating  
21 what was de facto, de facto reinstating what was part of the  
22 omnibus agreement, where none of those people got paid. And it  
23 was for the benefit of the shareholders at the SeeCubic level,  
24 okay?

25 THE COURT: But that is for another day.

1 MR. ZAHRALDDIN: All right. Well --

2 THE COURT: So at the end of the day, my job is to  
3 make sure that the assets of this estate are protected. And  
4 does that mean that there is nothing going on that they are at  
5 risk? I don't do anything, I say no. If I find that they are  
6 at risk, I say something.

7 And so where we are is, we have heard Mr. Stastney  
8 say I am not doing anything. And they are saying, no, George,  
9 look at all of these things that he did, this, that. I have to  
10 now weigh that. You guys are arguing the end results, but I  
11 have to go and say okay, well, the Debtor said this is what  
12 they are doing, this is what they are doing. Mr. Stastney says  
13 I am not, you are going to bring in some other people who  
14 presumably will support his position. And then I am going to  
15 look at everything and say are these assets at risk of -- of  
16 the Debtors, at risk of having -- being irreparably harmed with  
17 respect to these assets. If they are, I, you know, it's not --  
18 I'd probably issue a preliminary injunction. I don't know why  
19 a TRO. If they're not, I don't do anything. I said there's  
20 nothing, denied. And that's where we are.

21 And so, I think we've gone astray by arguing all  
22 these things about who's what and who's -- the bottom line is,  
23 and nobody has told me otherwise. The underlying license is an  
24 asset of who?

25 MR. ZAHRALDDIN: The Debtors.

1 THE COURT: Both debtors? One debtor?

2 MR. ZAHRALDDIN: The Stream is the ultimate signatory  
3 and -- well, sorry. Excuse me.

4 THE COURT: All right.

5 MR. ZAHRALDDIN: Stream --

6 THE COURT: Don't worry about it.

7 MR. ZAHRALDDIN: Okay. Yeah.

8 THE COURT: I have what I have in the record.

9 MR. COLBY: Yeah. Yeah.

10 MR. ZAHRALDDIN: Okay.

11 MR. COLBY: The license is, the license between  
12 Philips and one of these entities, that entity is Ultra-D  
13 Ventures, which is one of the --

14 MR. ZAHRALDDIN: Yeah, not under control --

15 MR. COLBY: -- subsidiaries.

16 MR. ZAHRALDDIN: -- of Mr. Stastney but independent.

17 MR. COLBY: It's an indirect --

18 THE COURT: I don't need all that commentary.

19 MR. COLBY: It's an indirect subsidiary --

20 THE COURT: Uh-huh.

21 MR. COLBY: -- of Stream.

22 THE COURT: Uh-huh.

23 MR. COLBY: And then the work, the technical  
24 expertise to know --

25 THE COURT: Back up.

1 MR. COLBY: -- about the people are at SeeCubic B.V.

2 THE COURT: I get where they're at.

3 MR. COLBY: Yeah, they're at --

4 MR. ZAHRALDDIN: Yeah, but --

5 THE COURT: But there is a license between Rembrandt  
6 and the Debtor?

7 MR. ZAHRALDDIN: Yes, ma'am.

8 THE COURT: Okay. And those people who are at SCBV  
9 were there by virtue of some alleged relationship with  
10 Rembrandt. Alleged.

11 MR. COLBY: Yeah. No, and I just -- that's --

12 THE COURT: And so -- counsel.

13 So the issue is, is what does that license mean? I  
14 don't know and until somebody decides and the Debtor says this  
15 is my license and you're using it in SCBV --

16 MR. COLBY: Right.

17 THE COURT: -- we've got a problem.

18 MR. COLBY: So --

19 MR. ZAHRALDDIN: Well that's -- Your Honor, that's  
20 what -- Mr. Michaels is the counterparty to that --

21 THE COURT: I get that.

22 MR. COLBY: Yeah, if we're --

23 MR. ZAHRALDDIN: -- for that license.

24 MR. COLBY: If we're talking about the Rembrandt  
25 license, that's a different issue. I think that'll be

1 addressed today and probably also by Mr. Barenbrug.

2           The -- just one slight correction. The folks at  
3 SeeCubic B.V., really are descendants, direct descendants of  
4 the Philips operation, when Philips decided it wasn't -- they -  
5 -

6           THE COURT: And so they had --

7           MR. COLBY: -- worked there and they did this.

8           THE COURT: So let me back up.

9           MR. COLBY: Not Rembrandt, I guess is my point.

10          THE COURT: Wait a minute.

11          MR. COLBY: But there was --

12          THE COURT: So when Rembrandt -- and counsel, I don't  
13 know how you get around this, because I think about all these  
14 things. Rembrandt sued Stream, sued Mr. -- among other people,  
15 Mr. Barenbrug.

16          MR. COLBY: Correct.

17          MR. ZAHRALDDIN: Uh-huh.

18          THE COURT: Okay. And there was a settlement --

19          MR. COLBY: Correct.

20          THE COURT: -- with respect to that.

21          MR. COLBY: Correct.

22          THE COURT: Well, if there wasn't a settlement.

23 You're shaking your head. Mr. Stastney was somehow involved in  
24 that case.

25          MR. CAPONI: Your Honor, and I'd just correct the

1 record on this.

2 THE COURT: Uh-huh.

3 MR. CAPONI: The New York litigation ended with the  
4 claims being dismissed. Rembrandt -- and this was all while  
5 Mr. Rajan controlled the company. Mr. Rajan defended that  
6 litigation.

7 THE COURT: And Mr. -- wait a minute. And so, Mr.  
8 Michaels testimony that he directly talked to Mr. Stastney is a  
9 lie?

10 MR. CAPONI: Mr. Stastney was an employee under Mr.  
11 Rajan.

12 THE COURT: Doesn't matter. He was involved or not.  
13 I don't want to hear about whether he was --

14 MR. COLBY: Yep.

15 THE COURT: -- an employee or not.

16 MR. CAPONI: Well, Your Honor, it's relevant for this  
17 factor.

18 THE COURT: Okay.

19 MR. CAPONI: This was not an entity controlled by Mr.  
20 Stastney --

21 THE COURT: Okay.

22 MR. CAPONI: -- with the secured creditors during the  
23 course of the New York litigation. It was controlled by Mr.  
24 Rajan.

25 THE COURT: And Mr. -- wait a minute. And Mr.



1 Stastney was not an officer or a board member or anything else  
2 at that time?

3 MR. CAPONI: He was an officer.

4 MR. ZAHRALDDIN: He was both, Your Honor.

5 THE COURT: So don't tell me he was an employee. He  
6 was also an officer.

7 MR. CAPONI: Well, he was under Mr. Rajan. He wasn't  
8 directing the --

9 THE COURT: Was --

10 MR. CAPONI: -- litigation, Your Honor. Your Honor,  
11 if I may just --

12 THE COURT: But he was an officer.

13 MR. CAPONI: He was an officer.

14 THE COURT: And a board member.

15 MR. CAPONI: And he was sent --

16 THE COURT: Yes.

17 THE COURT: -- to negotiate the litigation.

18 MR. CAPONI: Your Honor --

19 THE COURT: But so --

20 MR. CAPONI: -- the point being --

21 THE COURT: -- so who controlled -- the point of the  
22 matter is, there was some sort of settlement. I don't care  
23 what you --

24 MR. CAPONI: There was not, Your Honor. May I  
25 clarify the record on that because --

1 THE COURT: Okay.

2 MR. CAPONI: -- it's important.

3 THE COURT: All right. There wasn't a settlement.  
4 What happened?

5 MR. CAPONI: There was not a settlement. There was a  
6 mediation. Rembrandt wanted there to be a settlement.  
7 Rembrandt filed a Motion after the mediation to enforce a  
8 settlement agreement.

9 THE COURT: Uh-huh.

10 MR. CAPONI: It was litigated. Both the magistrate  
11 who oversaw the mediation and the District Court ruled, there  
12 was no meeting of the minds and there was no settlement. Full  
13 stop, New York litigation ends. Years later, in the context of  
14 getting ready for the bankruptcy that was kicked out as being  
15 fraudulent, they -- Mr. Rajan signs a settlement agreement with  
16 Rembrandt.

17 So there was no New York litigation resolved via a  
18 settlement. The New York litigation was resolved because the  
19 case was dismissed.

20 THE COURT: Dismissed by the Court or dismissed by  
21 the party?

22 MR. CAPONI: By the Court.

23 MR. ZAHRALDDIN: Can I object to the testimony?

24 MR. CAPONI: By the Court.

25 MR. ZAHRALDDIN: But Your Honor, why can't we --

1 MR. CAPONI: And there is a --

2 MR. ZAHRALDDIN: -- look at the actual written  
3 document?

4 MR. CAPONI: -- written opinion, Your Honor.

5 THE COURT: You know what? I don't need anybody to  
6 tell me anything.

7 MR. ZAHRALDDIN: I'm just asking.

8 THE COURT: Don't tell me anything.

9 Somebody put the -- just put the record in -- put the  
10 docket in the record. I just want --

11 MR. ZAHRALDDIN: Yes, ma'am.

12 THE COURT: -- the docket in the record. I don't  
13 need your interpretation, his interpretation.

14 MR. ZAHRALDDIN: That's what I'm asking. That's all  
15 I'm asking.

16 THE COURT: Just put it all in. And the -- it really  
17 isn't relevant to me --

18 MR. COLBY: That's -- yeah.

19 THE COURT: -- because at the bottom line is either  
20 the Debtor believes this is a -- and I have to -- I can, for  
21 instance, in the context of a Motion for Relief from State, if  
22 the parties dispute ownership, I can, for the purpose of the  
23 Motion for Relief, make a determination solely for that  
24 purpose, whether in fact a party, for instance, or the mortgage  
25 company says I have a mortgage, the Debtor says, you don't have

1 one. I never signed any papers. I didn't do anything. Okay.  
2 I will have a hearing and I will say for the purposes of this  
3 Motion, I will find, for this purpose only, it's not a final  
4 determination, I'll find there's a mortgage.

5 But you guys are going to -- either I have to make a  
6 final determination or you're going to go to state court and  
7 have a final determination. So -- but it's because they're --  
8 you know, the parties are asserting. The same way the Debtor  
9 says, I own this. Okay. I own it. And somebody ultimately  
10 has to determine ownership. I may have to say for the purposes  
11 of what I'm doing, determine whether it's more -- it's -- that  
12 the Debtor has an interest, doesn't have an interest. But  
13 solely for the purpose of making my decision as to whether I'm  
14 going to rule one way or the other.

15 MR. COLBY: If I could ask --

16 THE COURT: And so, that's what exists here.

17 MR. COLBY: If I could ask a question, Your Honor,  
18 just so I can be sure to be as responsive as possible to what  
19 you're speaking about and focusing on.

20 Are you referring to the Rembrandt license? Is that  
21 what you're discussing?

22 THE COURT: Well, the license that the Debtor says it  
23 has an interest in, that SCBV is using.

24 MR. COLBY: Right. So I think there are two that the  
25 Debtor says -- has an interest in. There are two licenses at

1 issue. There's the Philips license, which we've talked about  
2 quite a bit.

3 THE COURT: Uh-huh.

4 MR. COLBY: And then there is the 2021 settlement  
5 with Rembrandt, which creates what we've been referring to as  
6 the Rembrandt license.

7 MR. ZAHRALDDIN: And Your Honor --

8 THE COURT: Oh, don't interrupt him.

9 MR. COLBY: And so, I guess I don't think anybody  
10 disputes that the Philips license exists. I don't think the  
11 Court needs to make a ruling on that.

12 THE COURT: But to the extent the Philip license  
13 exists, the Debtors asserting, I guess, some sort of interest  
14 in that. I don't know if the Debtor has an interest or not.

15 Do I have to make that determination now? All I have  
16 to say is the Debtor is asserting an interest, believes that  
17 these -- this entity is using its asset, because they had to  
18 have gotten it from somewhere. The SCBV did not, at least I  
19 haven't seen it --

20 MR. ZAHRALDDIN: They're not a party.

21 THE COURT: -- in the record anywhere, a license from  
22 Philips and SCBV, unless it got one lately and I haven't seen  
23 it.

24 MR. COLBY: But we have the license, well, first of  
25 all, it's with -- it's currently with Ultra-D Ventures. It is

1 in the record. The --

2 THE COURT: Uh-huh.

3 MR. COLBY: -- both the license is in the record and  
4 the 2014 amendment.

5 THE COURT: And the license from Ultra-D to SCBV is  
6 in there?

7 MR. COLBY: No.

8 MR. ZAHRALDDIN: No.

9 MR. COLBY: There is the --

10 THE COURT: That's the point, that I don't see  
11 anything, but anybody giving anything to SCBV.

12 MR. ZAHRALDDIN: And --

13 MR. COLBY: Well, the --

14 THE COURT: And I don't know who owns this stuff. I  
15 don't know. Somebody's going to have to figure this out. I'm  
16 not an IP --

17 MR. COLBY: Yes, the --

18 THE COURT: -- I'm not trying to do IP.

19 MR. COLBY: The Ultra-D license includes SeeCubic,  
20 B.V.

21 THE COURT: Oh, it says that they include it?

22 MR. COLBY: I believe --

23 MR. ZAHRALDDIN: No, Your Honor, what it says --

24 THE COURT: You know what?

25 MR. ZAHRALDDIN: Again --

1 THE COURT: We're going astray.

2 MR. ZAHRALDDIN: We are.

3 THE COURT: We're going astray.

4 MR. ZAHRALDDIN: We are.

5 THE COURT: All I was trying to figure out is, was  
6 this a preliminary injunction and trying to give you guys some  
7 guidance for where I was and what I was trying to figure out.  
8 And from my perspective, if this is assets of the Debtor's  
9 estate, I have to do something, if I believe there's  
10 irreparable harm.

11 The first thing I have to figure out is, for the  
12 purposes of this motion, or for TRO / preliminary injunction,  
13 because that's what it's slash called, is this assets that  
14 could be possibly assets of the Debtor? If I look at the  
15 documents and go no way, then I don't even get to irreparable  
16 harm.

17 MR. COLBY: Got it.

18 THE COURT: If I get to and say possible, then I have  
19 to say, okay, what, if anything, needs to be done to protect  
20 these assets? The answer could be, yeah, its assets, like,  
21 possible assets. Nothing needs to be done. It's possible  
22 assets, something needs to be done.

23 But that's where I am, and I was hoping people would  
24 just kind of focus on that. I was trying to --

25 MR. COLBY: Sure.

1 THE COURT: -- get people to -- I have spent God  
2 knows how much time, again, asking questions that I probably  
3 shouldn't have and just let the parties go.

4 MR. COLBY: Well --

5 MR. CAPONI: Your Honor, if I may briefly?

6 THE COURT: Uh-huh.

7 MR. COLBY: Sorry. Sorry.

8 THE COURT: Well, okay.

9 MR. COLBY: Sorry, Mr. Caponi.

10 THE COURT: Mr. Caponi.

11 MR. COLBY: Am I allowed to interrupt Mr. Caponi?  
12 Mr. Zahralddin. We're on the same team.

13 MR. CAPONI: He can interrupt me all he wants.

14 MR. COLBY: Okay. So that's up with the -- there has  
15 been discussion. I think even Mr. Rajan concedes that the  
16 Philips license includes affiliates and that definition would  
17 include SeeCubic, B.V.

18 I think there is a separate issue that I'm not an  
19 expert on, a separate sort of bankruptcy law issue about  
20 whether or not, what the Debtors own is sort of in the assets  
21 of the subsidiary or the interest in the subsidiary. I think  
22 we have submitted some briefing on that and if -- to the extent  
23 we need to argue it, we can argue it. I don't know that that's  
24 an evidentiary issue.

25 THE COURT: We're not getting into that today.



1 MR. COLBY: Right.

2 THE COURT: Not today. And not --

3 MR. COLBY: Not today. Right.

4 THE COURT: -- no, and not, you know, if you  
5 submitted something I'll look at.

6 Mr. Caponi?

7 MR. CAPONI: Yes, Your Honor. To your point, and  
8 it'd well taken. But I would like to address one issue, which  
9 is the notion. And I understand Your Honor's desire to get to  
10 the heart of it.

11 This is not a we issue. The Debtor filed a Motion.  
12 The Debtor bears the burden of establishing each of its  
13 elements, what the property's with specificity, because the  
14 Court ultimately has to enter an order. If the Court enters an  
15 order, in order for it be worth the paper it's written on, it  
16 has to have specificity.

17 What asset belongs to the estate, how it's being  
18 used, and how it's not, et cetera. To the extent, and as Mr.  
19 Colby has pointed out, this thing has morphed. I mean, I came  
20 here, my client, as far as I'm concerned, this is a TRO.  
21 That's what the Debtor filed.

22 If the Debtor wanted to file something else, it  
23 should have, it could have withdrawn the Motion, filed the new  
24 Motion.

25 THE COURT: Well, there was a TRO preliminary

1 injunction.

2 MR. CAPONI: That's fine, Your Honor.

3 To the extent the Court has questions. To the extent  
4 the Debtor has failed to make order out of chaos or created, in  
5 my view, chaos out of order, that's the Debtors fault problem  
6 -- issue. It's not clients. And I would just like to remind  
7 the Court, it's the Debtor that bears the burden. And --

8 THE COURT: I know that, counsel.

9 MR. CAPONI: -- I'm happy to answer questions and  
10 bring clarity to the Court. But to the extent that the Debtor  
11 filed the -- you know, a TRO Motion / preliminary injunction.  
12 Then the Stay. And then a --

13 THE COURT: Well, the Stay? What Stay?

14 MR. CAPONI: -- a claim in District Court. And  
15 then --

16 THE COURT: Wait a minute. The Stay has nothing to  
17 do with this.

18 MR. CAPONI: Your Honor, it has this to do with it.  
19 To the extent the Debtor's argument is -- Mr. Zahralddin is  
20 arguing. Like, there was this -- these assets and they're so  
21 important and we got to get control of them and that's been our  
22 focus.

23 The Debtor's been scattershot throughout this whole  
24 -- it is the conductor of a bankruptcy. It gets to decide the  
25 flow, the tempo, what gets raised. The chaos was created by

1 all these things the Debtors filed.

2 THE COURT: Well, one of them was because --

3 MR. CAPONI: And then one other thing.

4 THE COURT: I will take responsibility for one that  
5 kind fell through the crack and we just --

6 MR. CAPONI: Right.

7 THE COURT: -- left it out there. So that one --

8 MR. CAPONI: That's us, Your Honor.

9 THE COURT: -- that's on the Court.

10 MR. CAPONI: Everything else is the Debtor.

11 And then I don't think -- I think it has to be  
12 mentioned, that this asset that we're talking about in the  
13 Netherlands that seems so near and dear to the Debtor's heart  
14 is an asset that the Debtor has refused to fund for years, even  
15 during the course of this bankruptcy. I think that's relevant  
16 to Your Honor, because if I --

17 THE COURT: Well, counsel --

18 MR. CAPONI: -- believed that I had an extremely  
19 valuable asset, I had a classic Ferrari that Your Honor is  
20 sitting in a garage somewhere and I -- I'm going to pay the  
21 rent on the garage so my car -- that car doesn't get towed out.  
22 If I don't, I think that says something about --

23 THE COURT: But your client just --

24 MR. CAPONI: -- what I think the value of the car --

25 THE COURT: Well, your client --

1 MR. CAPONI: -- is in the garage.

2 THE COURT: -- just told me or you guys just told me  
3 you guys' no longer fund. And does that same apply that you no  
4 longer funding and so it's just going to go to the wind?

5 MR. CAPONI: Ultimately, Your Honor, this thing may  
6 go to the wind, and if the assets don't get -- and I think this  
7 is the point. If the employees aren't paid, these employees  
8 that -- whose knowledge in their head seem so paramount to the  
9 Debtor, why is the Debtor letting them potentially just walk  
10 out the door because they're not getting paid? If these assets  
11 in the Netherlands are so near and dear to Rembrandts heart and  
12 the Debtor's heart, why are they sitting back, letting them  
13 potentially go into a Dutch bankruptcy?

14 THE COURT: Because you guys have been paying. Why  
15 wouldn't he?

16 MR. ZAHRALDDIN: Well, that's not it, Your Honor.

17 MR. CAPONI: It goes to the sincerity of the  
18 argument.

19 MR. ZAHRALDDIN: Your Honor, excuse me.

20 THE COURT: Whoa, whoa, whoa, whoa.

21 MR. ZAHRALDDIN: Let me ask a question. Let me just  
22 ask a question.

23 We came in here and asked to fund early on and you  
24 said, "No, I can't do it at this time. I don't see it as  
25 assets to the Debtor, and that's what we're going to do."

1           So it -- you know, to sit there and now recreate  
2 history when we came in and asked, please, let us go over  
3 there.

4           THE COURT: You did, and I said --

5           MR. ZAHRALDDIN: Now --

6           THE COURT: -- go finish your funding, you already --  
7 and it wasn't that I was going to let you do it because it  
8 wasn't an asset. I said they already had a source of funding.

9           MR. CAPONI: Right.

10          MR. ZAHRALDDIN: I understand, Your Honor. But  
11 here's the -- let me finish, Mr. Caponi, please.

12          Then during the interim, during the interim, they go  
13 and take over the asset. How are we supposed to control the  
14 asset when they've gone and filed things in the Netherlands to  
15 take control of an asset which they have no collateral  
16 involvement in period.

17          THE COURT: I don't know. I'm not going to make that  
18 determination.

19          But I think that there's enough to go around for  
20 everybody.

21          So Mr. Caponi, I said no funding. They did come in  
22 and ask for VSI to pay the money. I don't know -- but I said  
23 no, because they already had a source of funding. Why was I  
24 going to let the Debtor go incur debt when somebody else was  
25 already funding?

1           And so, that's really what happened is, I said no and  
2 your client graciously or whatever in his best interest, I'm  
3 not going to use the word graciously, but figured that it was  
4 in his best interest to continue to fund. And then I don't  
5 know who went and filed for independent director. I don't know  
6 who went.

7           MR. ZAHRALDDIN: Well, it's on the caption, Your  
8 Honor. It's on the caption.

9           THE COURT: I don't know why, but at some point,  
10 whatever involvement the Debtor had, or the Debtors represented  
11 or the Debtors -- or whatever Mr. Rajan's role is in the  
12 Debtor, was opposed to being involved in SCBV. And he was  
13 removed.

14           So I don't know. Listen, there's enough blame to go  
15 around for everybody in here. So let's not everybody play the  
16 martyr. Okay. Let's not play I'm bad, they good. There's  
17 good and bad on every part. And at the rate you guys going,  
18 you don't want to know what my perception is.

19           MR. ZAHRALDDIN: Your Honor --

20           THE COURT: You don't.

21           MR. ZAHRALDDIN: -- I just want to make sure that --  
22 I've been asking. We -- you asked us to have some progress.  
23 We filed a plan. The plan resolves our issues with Rembrandt.  
24 The plan has purchase orders. The plan wants to move forward.

25           THE COURT: They can have all the purchase orders it

1 want. Unless you guys are selling stuff, I don't care about  
2 purchase orders.

3 MR. ZAHRALDDIN: Well, we'd like to go to production,  
4 but our main piece of equipment and we had to go find -- is  
5 being locked up somewhere in China because of their  
6 interference.

7 THE COURT: I thought you guys were mediating that.

8 MR. ZAHRALDDIN: We're trying to, Your Honor. But  
9 every single time we bring something, there's some brand-new  
10 issue that slows it down.

11 THE COURT: Oh, okay.

12 MR. ZAHRALDDIN: But look. I simply want to say,  
13 we're trying to do what we're supposed to. But we've been --  
14 I've seen it in their papers and otherwise, somewhere we're  
15 creating litigation chaos. They have gone outside of this  
16 jurisdiction. They've messed with stuff within this  
17 jurisdiction. What are we supposed to do? Say it's okay, not  
18 file something to prevent it?

19 THE COURT: All right.

20 MR. ZAHRALDDIN: The scatter shot of this --

21 THE COURT: All right. There's enough blame -- I've  
22 already said, I'm going to say it again. There's enough blame  
23 to go around for everybody and nobody has clean hands as far as  
24 I'm concerned.

25 And so, you don't want to be there with me. You do

1 not. You do not want to -- you do not want me to have that  
2 view, because it's not going to be good for anybody. Now --

3 MR. ZAHRALDDIN: Understood, Your Honor.

4 THE COURT: -- I understand Mr. DeMarco -- who's Mr.  
5 DeMarco?

6 MR. DEMARCO: That's me, Your Honor.

7 THE COURT: What do you want to say, Mr. DeMarco?

8 MR. DEMARCO: I believe my matters been addressed,  
9 Your Honor, and I won't derail things further. If it's  
10 necessary, I'll confer with my client and --

11 THE COURT: All right.

12 MR. DEMARCO: -- if we need to file something.

13 THE COURT: So where are we at after an hour of me  
14 taking us off the rails? Is that -- to the extent this is  
15 either a TRO or preliminary injunction -- to the extent this is  
16 a TRO / preliminary injunction, the standard is, we can have  
17 some hearsay, which is what this was supposed to start out  
18 about and solely be on a ruling with respect to Mr. --

19 MR. KODOSKY: Kodosky.

20 THE COURT: -- Kodosky's argument that -- in response  
21 to the hearsay.

22 We have now gone off on a tangent about what I think  
23 you guys should be giving me and the bottom line is as I see  
24 it, the Debtor is alleging that their interest or interest in  
25 whatever that license, in SCBV is not being protected and it's



1 not being protected because allegedly Mr. Stastney was going to  
2 license it. This is the evidence that they provided. Mr. --  
3 he's not protected it because it's not encrypted and he's doing  
4 all these bad things, and I should stop him.

5 And Mr. Stastney's response is, I'm not licensed it,  
6 we're not doing bad things, and we're going to put on Mr.  
7 Barenbrug and somebody else to say we're not doing these bad  
8 things.

9 That's all I really need, and all of this other side  
10 show is really not helpful.

11 MR. COLBY: Yeah. Thank you, Your Honor.

12 THE COURT: Okay.

13 MR. COLBY: I agree.

14 THE COURT: All right. With that all being said,  
15 counsel, Mr. Kodosky, after an hour, you can start with Mr. --  
16 continue with Mr. Michaels testimony.

17 MR. KODOSKY: Thank you, Your Honor.

18 THE COURT: Go ahead.

19 And Mr. Caponi, I -- sorry for cutting you off.

20 MR. CAPONI: No problem, Your Honor. He has more  
21 important --

22 MR. COLBY: So am I. So am I.

23 MR. CAPONI: -- things to say than me.

24 THE COURT: I tend to do that. I'm, like, okay --  
25 because I know what I want to hear, and you guys are just

1 complicating it.

2 Go ahead, Mr. Kodosky.

3 MR. KODOSKY: Permission to approach, Your Honor,  
4 with what is --

5 THE COURT: Yes.

6 MR. KODOSKY: -- been marked for identification as  
7 Debtors Exhibit Number 85.

8 THE COURT: And you have that, John? On the --

9 MR. ZAHRALDDIN: He does.

10 UNIDENTIFIED SPEAKER: Yes.

11 THE COURT: Okay.

12 UNIDENTIFIED SPEAKER: Yeah.

13 THE COURT: I have 84, which is the definition that  
14 Mr. Michaels identified has something to do with some  
15 litigation somewhere. Okay.

16 All right. 85. Mr. Michaels, are you back?

17 THE WITNESS: Yes.

18 THE COURT: Who's talking? Whoever's talking, please  
19 turn your phone off, because I can -- can you hear them, John?

20 UNIDENTIFIED SPEAKER: I think it was him. I think  
21 it was his background.

22 THE COURT: Okay.

23 Go ahead.

24 BY MR. KODOSKY:

25 Q Mr. Michaels, well you are being shown what has been

1 marked for identification as debtors Exhibit 85. Do you  
2 recognize this document?

3 A I do.

4 Q What is it?

5 A It's the nondisclosure and non-circumvention agreement  
6 that was signed with Bart Barenbrug and 3D Fusion, Inc.

7 Q The nondisclosure and non-circumvention agreement that he  
8 had denied executing as part of his declaration?

9 A Yes, it is.

10 MR. KODOSKY: Move to admit, Your Honor.

11 MR. COLBY: No objection, Your Honor.

12 THE COURT: Okay. Admitted.

13 (Debtor's Exhibit 85 admitted into evidence)

14 MR. KODOSKY: Thank you.

15 BY MR. KODOSKY:

16 Q Mr. Michaels, and we can set that document aside. Is it  
17 your understanding that SeeCubic, Inc. has a sublicense  
18 business model?

19 A Yes, from the PPM and their testimony.

20 Q Is your --

21 THE COURT: Who is talking?

22 MR. COLBY: I'm not certain, but it looks like Mr.  
23 Blumenthal is not muted based on the screen.

24 THE COURT: Can you --

25 MR. COLBY: And I thought the box flashed on there

1 when -- it happens when somebody's speaking.

2 THE COURT: And who's --

3 MR. COLBY: Now he's muted.

4 THE COURT: -- he again?

5 MR. COLBY: Now he's muted.

6 THE COURT: Who is Mr. Blumenthal?

7 MR. ZAHRALDDIN: Mr. Blumenthal is the CEO of  
8 Rembrandt, Your Honor.

9 THE COURT: CEO? Okay. All right.

10 Okay. I guess he did not like that answer.

11 Okay. Sublicensing. Okay. Go ahead.

12 BY MR. KODOSKY:

13 Q Is your understanding that Stream TV is selling components  
14 or actual TV's?

15 A Stream TV is selling actual TV's, and we have a number of  
16 units of those TV's.

17 Q And have you tested content on a Stream TV actual unit?

18 A Yes.

19 Q Were you able to remove any of the content from the TV?

20 A We were able to remove -- I mean, we were able to deliver  
21 content to it externally. But we are not able to access any of  
22 the processing of that content internal to the -- that is  
23 internal to the TV.

24 Q Is it your assessment that Stream TV had strong security  
25 protocols on content?

1 A Yes, our team has a number of people that are  
2 sophisticated and understand how to deliver and manage content  
3 in audio visual equipment and we were not able to get access to  
4 it.

5 Q At the last hearing that was held on October, I believe it  
6 was 27th, 2023, did you hear the testimony of Mr. Rajan that  
7 the security --

8 A Yes.

9 Q -- that the security protocols by SeeCubic, Inc. on  
10 content were removed on 8K TV's, automotive, and gaming?

11 A I did and that -- that was very distressing to myself and  
12 Rembrandt staff.

13 Q Did you hear that some content companies thought the TV's  
14 produced by SeeCubic, Inc. were so bad that they were even  
15 mapping directly to the device?

16 A Yes.

17 Q Did you know that Stream TV has begun to work with content  
18 companies and is maintaining security protocols?

19 A Yes.

20 Q If the content files are released that contain trade  
21 secrets, do you think that is irreparable damage to Stream TV?

22 A Yes, and to Rembrandt, which is more my concern. But I  
23 understand for the Motion that it's about Stream TV, yes.

24 Q Thank you. The Eindhoven engineers that were working at  
25 Rembrandt, with a Rembrandt processor, prior to working with

1 Stream TV, is that correct?

2 THE COURT: Wait, what was the question?

3 BY MR. KODOSKY:

4 A Yes.

5 MR. KODOSKY: Eindhoven engineers. E-I-N-D-H-O-V-E-  
6 N.

7 THE COURT: Oh, Eindhoven --

8 MR. KODOSKY: Eindhoven.

9 THE COURT: -- engineers. What about them? I'm  
10 sorry. He understood, I didn't. What was the question?

11 MR. KODOSKY: We're working at Rembrandt with a  
12 Rembrandt predecessor prior to working with Stream TV.

13 MR. COLBY: Objection, Your Honor. I don't think  
14 it's been established that Mr. Michaels was involved with that  
15 predecessor at that time. I don't think it's been established  
16 that he has firsthand knowledge.

17 THE COURT: Okay.

18 MR. KODOSKY: I'm asking if he knows.

19 THE COURT: Well, how does he know? You can ask him  
20 how does he know.

21 MR. KODOSKY: I haven't had the opportunity yet.

22 THE COURT: All right. Well, his objection's  
23 sustained. Establish a foundation on how he would know the  
24 Eindhoven engineers were working for Rembrandt's predecessor  
25 prior to -- what was the question -- prior to --

1 MR. KODOSKY: Prior to working with Stream TV.

2 BY MR. KODOSKY:

3 Q Do you have any understanding, Mister --

4 A Yes.

5 Q -- Michaels? Based on what?

6 A My law firm has been representing Stephen Blumenthal and  
7 the companies that he's worked with for 30-something years. I  
8 was involved in the litigation and read the testimony, heard  
9 the testimony as various Stream TV employees, and have seen  
10 numerous documents going back and forth between engineers in  
11 Eindhoven and Stephen Blumenthal. And I -- just up until  
12 today, that that has not been disputed that those engineers  
13 worked with 3DFusion and Stephen Blumenthal for roughly 18  
14 months before they went to go work for Stream TV, or more  
15 accurately, SeeCubic BV, a subsidiary of Stream TV.

16 Q Were there 45 meetings with meeting notes and a list of  
17 attendees with Steve Blumenthal?

18 A Yes, and I reviewed those.

19 Q Who attended the 45 meetings?

20 A There are a number -- I think it's 7 to 12 engineers and  
21 individuals from the -- the Ein -- what's been referred to as  
22 the Eindhoven team. They're mostly former Phillips employees  
23 that left Phillips to come work with 3DFusion and Stephen  
24 Blumenthal, and Stephen Blumenthal's former business partner in  
25 3DFusion, Ilya Sorokin.

1 Q Were the four trade secret claims discussed in the 45  
2 meetings?

3 A Those trade secrets were. They weren't claims at that  
4 point. They were trade secrets that were going back and forth  
5 between that team and -- and Stephen Blumenthal.

6 Q Who were the engineers who signed NDAs with Rembrandt?

7 A I'd have to look back through the full records, but at  
8 least Walter Roelen, Hans Zuidema, Bart Barenbrug. And I -- I  
9 think there are a number of others. I'd have to look through  
10 our documents to refresh my recollection as to the names.

11 Q And I believe one of the names that you mentioned was  
12 Walter Roelen, R-O-E-L-E-N; is that correct?

13 A Yes.

14 Q Was Roelen paid by Rembrandt's predecessor?

15 A Yes.

16 Q Did he hold himself out as a de facto agent?

17 A Yes, and he was the director and CEO of the Netherlands'  
18 entity of 3DFusion.

19 Q Was code on some of the trade secrets claims shared with  
20 Steve Blumenthal?

21 A Yes, and -- and in and amongst that entire team.

22 Q What is the risk for Stream TV and Rembrandt if that trade  
23 secret is leaked out?

24 A Once -- once leaked, it's going to be gone forever. The  
25 entities working in this space are in China, Korea, India,



1 Japan, Taiwan. I mean, these countries are not known for  
2 respecting intellectual property. You know, to date, as far as  
3 we know, Stream TV has never released any of that code, even  
4 though they were putting it to use without our permission. And  
5 we were upset about that and eventually reached that license  
6 agreement. To our knowledge, other than -- I believe the only  
7 time we accused them of disclosing it was in a patent  
8 application for one aspect of the trade secret information that  
9 we outlined in our complaints. But other than that, they've  
10 kept it secret as far as we know.

11 Q If the Phillips license is canceled, what is the damage to  
12 Stream TV and I guess, by extension, to Rembrandt?

13 A Well, Rembrandt has other sources in their other licensees  
14 to the Phillips license that we can work with and have been in  
15 the past. For Stream, it would largely be the end of the road.  
16 The -- the -- the technology is completely reliant on Phillips  
17 2D-plus-Depth system, and they have hundreds -- I think it's  
18 even up to about 1,500 patents -- that were -- has now been  
19 sold to Leia but is now -- but anybody who had a license,  
20 they've -- they've had to honor that, similar to selling a  
21 building. They have to honor the -- the leases to any existing  
22 tenants. So if lost, I -- Phillips is no longer capable of --  
23 of issuing a new license, and Leia has its own business  
24 strategy for how it wants to work with partners in that -- in  
25 that space. And so it'd be catastrophic. And there's quite a

1 bit of incentive for Phillips and/or Leia to want to be in a  
2 position to cancel that license. The licenses being issued  
3 today are many multiples in order to magnitude higher value  
4 than what Stream was able to purchase that license for.

5 MR. COLBY: Objection, Your Honor. I move to strike  
6 the witness's answer. He's testifying about what Leia would  
7 want to do or what Phillips would want to do. Mr. Michaels was  
8 initially proffered as an expert. The Court denied that  
9 request. If he wants to testify about Rembrandt and  
10 Rembrandt's license fine, but he shouldn't be permitted to  
11 testify about Phillips', you know, what their -- what would be  
12 more valuable to them and why they'd be incented to cancel the  
13 license. He just has no firsthand knowledge of that. It's not  
14 appropriate.

15 THE COURT: Counsel?

16 MR. KODOSKY: I can ask what his understanding is  
17 based on. I believe that he can explain where that foundation  
18 is coming from.

19 THE COURT: Tell me what is -- you can ask him what,  
20 you know, his understanding of how he came to that.

21 BY MR. KODOSKY:

22 Q You mentioned -- Mr. Michaels, you mentioned Leia. Who is  
23 Leia and what is your understanding based on?

24 THE COURT: How do you spell that?

25 THE WITNESS: So Leia --

1 MR. KODOSKY: I'm sorry.

2 THE WITNESS: I'm sorry. Is there an objection?

3 THE COURT: How do you spell Leia? I have it as L-E  
4 -- I'm sure it's wrong.

5 MR. KODOSKY: L-E-I-A?

6 THE WITNESS: L -- yes.

7 BY MR. KODOSKY:

8 Q Go ahead, Mr. Michaels.

9 A So they're an entity based out of California. And they  
10 Have been acquiring companies and technology in the no-glasses  
11 3D space. They bought Dimenco, which is a former subsidiary or  
12 spin out of -- of Phillips, and they purchased the Phillips  
13 patent estate relating to the hardware for no-glasses 3D TV.  
14 And that's a matter of public record from the assignments going  
15 back and forth and their press release. I've also spoken to  
16 representatives in the business development office at Leia a  
17 number of times and emailed back and forth.

18 Q Is there a risk to Stream TV and I guess, by extension,  
19 Rembrandt when SeeCubic, Inc. and Mr. Stastney have been  
20 telling people that they're going to sublicense the whole  
21 industry?

22 A It's literally impossible. I mean, it -- it is a legal  
23 impossibility. The licenses are a record and prohibit that  
24 specifically. Virtually, any intellectual property attorney  
25 would render the same conclusion.

1 MR. COLBY: Objection, Your Honor. Mr. Michaels  
2 isn't able to testify about what the Phillips license allows or  
3 doesn't allow. His company is not a party to that. He's not  
4 an expert. And so I don't think he has a basis to be -- for --  
5 for the testimony he just offered.

6 MR. KODOSKY: I believe that Mr. Micheals -- I can  
7 ask him if he's reviewed the Phillips license. I believe that  
8 he has, Your Honor.

9 THE COURT: Okay, but I -- I thought he said that his  
10 -- some of his companies had licenses --

11 MR. COLBY: Yeah, exactly.

12 THE COURT: -- with Phillips.

13 MR. KODOSKY: Mr. Rembrandt has a license with  
14 Phillips. It's not the Ultra-D ventures license. They're  
15 different. Two different companies, two different licenses.

16 THE COURT: Well, I guess he can --

17 MR. COLBY: He's not an expert.

18 THE COURT: -- say based on his own license, but he  
19 can't tell me what they would do with respect to somebody  
20 else's --

21 MR. COLBY: Okay.

22 THE COURT: -- licenses.

23 MR. COLBY: That's what we discussed when this came  
24 up last name. He can testify about his own license, but not --

25 MR. KODOSKY: Your Honor, the license with Phillips

1 has been produced as an exhibit. It's been entered into the  
2 record in this case. And if asked, I believe Mr. Michaels will  
3 say that he's reviewed it.

4 MR. COLBY: But just because somebody's reviewed a  
5 document doesn't give them the ability to come in and freely  
6 testify their opinion as to what legally it permits and doesn't  
7 permit. Mr. Rajan testified about that. He's a party to it.  
8 He testified to his understanding.

9 THE COURT: Well, his understanding.

10 MR. COLBY: Right.

11 THE COURT: Mr. Stastney --

12 MR. COLBY: Mr. Stastney testified about it -- his  
13 understanding. Mr. Michaels -- his company is not a party to  
14 it. It's just not appropriate evidence.

15 MR. KODOSKY: Mr. Stastney is not a party to the  
16 contract either -- to the license agreement either.

17 MR. COLBY: Yeah, he was --

18 MR. KODOSKY: SeeCubic, Inc. is not a party to the  
19 license agreement.

20 THE COURT: Well, you couldn't -- you should've  
21 objected when he said it, and we have it in the record. It is  
22 what it is.

23 MR. COLBY: And he was overseeing. During the period  
24 of time when the omnibus agreement was in place, he was  
25 overseeing the assets of Stream, which included the license and

1 the subsidiaries, and those sorts of things. So --

2 THE COURT: That's his understanding of what it  
3 meant.

4 MR. COLBY: Yeah, yeah, and he had personal  
5 involvement with it.

6 BY MR. KODOSKY:

7 Q As part of the diligence to give out the license, what did  
8 you review?

9 A One of the critical documents we reviewed and discussed,  
10 even at the first mediation hearing, was whether or not Stream  
11 had acquired a license from Phillips and -- because we knew  
12 that was essential for them to be able to meet the terms of the  
13 settlement agreement and particularly providing millions of  
14 units of TVs that Rembrandt is relying upon to capture the  
15 value from that license. It was every single one of our trade  
16 secrets that we have listed in that agreement references the  
17 Phillips 2D-plus-Depth technology. It is the -- our technology  
18 is based off of that original Phillips, so -- so Phillips  
19 license. So if they did not -- if Stream did not have a  
20 Phillips license that fully satisfied the ability to  
21 manufacture TVs for us, we would not have entered into the --  
22 the settlement agreement as we had.

23 Q When Mr. Stastney testified back on October 6th and said  
24 that SeeCubic was talking to over 100 companies, in your view,  
25 is that a violation of the automatic stay in this case?

1 MR. COLBY: Objection, Your Honor.

2 THE COURT: Counsel, response?

3 MR. KODOSKY: What's the objection?

4 MR. COLBY: The objection is --

5 THE COURT: The objection is he's not the judge who's  
6 going to say it's a violation of the stay. And what's his  
7 basis? Is he a bankruptcy lawyer?

8 BY MR. KODOSKY:

9 Q Is there a risk or a potential --

10 THE COURT: Are you withdrawing that question?

11 MR. KODOSKY: I'll withdraw the question, Your Honor.

12 THE COURT: All right. Sustained, Mr. Colby.

13 BY MR. KODOSKY:

14 Q Is there --

15 THE COURT: Oh, it's withdrawn. I don't have to  
16 sustain.

17 BY MR. KODOSKY:

18 Q Is there a risk --

19 MR. COLBY: I agreed to it anyway, Your Honor.

20 BY MR. KODOSKY:

21 Q Is there a risk to harm to See -- I'm sorry, to Stream TV  
22 and Rembrandt by virtue of SeeCubic, Inc. and Mr. Stastney  
23 speaking to over a hundred companies regarding sublicensing?

24 A Yes.

25 Q What is your understanding of the current status of the

1 Phillips patents?

2 A The -- the Phillips patents, just to hone in, they have  
3 hundreds of thousands of patents. But the -- the 1,500 or so  
4 that are listed as related to no-glasses 3D hardware have been  
5 sold to Leia, Inc., and that's been made a public record. They  
6 maintain patents related to contract -- content creation and  
7 certain tools, and they would still maintain the rights to some  
8 of their software and knowhow that they had licensed out to  
9 3DFusion and to Stream over the years.

10 Q Are you familiar, Mr. Michaels. with the term, "parallel  
11 licensing?"

12 A I am.

13 Q What's the difference between parallel licensing and sub  
14 licensing if there is a difference?

15 A Well, it's about 180 degrees difference. The -- a  
16 sublicense is that I sell you a building and, or I mean, I rent  
17 you a building and allow you to bring in tenants as you see fit  
18 and to rent out apartments to others and make a profit on that.  
19 And a parallel license is I've rented you a single apartment.  
20 If you have a friend who wants to rent an apartment, you must  
21 refer them to me, and I will issue the lease for that  
22 apartment, and you're to have no part of it. You have no right  
23 to represent me in that -- in that transaction. And it is my  
24 building, and I will control the license.

25 MR. COLBY: Objection, Your Honor. I'd move to



1 strike the witness's testimony. It sounds an awful lot like  
2 the expert testimony that he was attempted to be proffered to  
3 give, which was denied. There is no basis in the questions for  
4 why that's relevant to the Rembrandt license.

5 MR. KODOSKY: And five minutes ago, Your Honor, that  
6 he reviewed as part of his due diligence, the language. He is  
7 a member of the patent bar. Having reviewed the language, I  
8 certainly feel it's appropriate for him to give his  
9 understanding of the difference between the -- between the two.

10 MR. COLBY: Yeah. So I think a lay witness is not  
11 permitted to give an opinion that's based on scientific,  
12 technical, or otherwise specialized knowledge. And it sounds  
13 as though that's precisely what he's being offered for.

14 MR. KODOSKY: He's a patent attorney with --

15 MR. COLBY: He's either an expert, and it wasn't  
16 disclosed.

17 THE COURT: Well, he's not as -- but I think I will  
18 allow it for what's it's worth to say what is a parallel  
19 license. And he's said it in terms of an apartment -- and  
20 sublicense. I mean, the term sublicensing -- is that a  
21 technical term? You believe it's a technical term? If it's a  
22 technical, and he's offering it as an expert, then, yes, I  
23 would agree, I would sustain. But how -- I mean, is this based  
24 on his -- some understand -- how does he know this?

25 BY MR. KODOSKY:

1 Q Mr. Michaels, how did you obtain your understanding of the  
2 term parallel licensing?

3 A I've worked on thousands of licenses. I represented  
4 Lucent, a number of companies in the display industry; Corning  
5 -- I've done a number of licenses with Corning; Samsung, Canon,  
6 Nikon, Picvue Electronics. Take your pick. I mean, I -- I  
7 don't know that I can list them all now, but the -- I have a  
8 fair understanding of the types of licenses that are offered  
9 and negotiated. These are pretty basic, I mean, I -- I don't  
10 even know that it -- these are pretty basic concepts in terms  
11 of what's being offered. It's just -- it's not exclusive  
12 versus exclusive, you know, are somewhat self-explanatory  
13 terms. But this was a non-exclusive license. I also have a  
14 business background, and the -- the value of a non-exclusive  
15 versus an exclusive license or a license that carries with it  
16 the right to sublicense is something that I have immense  
17 experience as a business professional and with respect to how  
18 Rembrandt it conducts its business. So I'm happy to testify to  
19 any of those facts. But in this particular instance, I can  
20 spec -- I can testify with specificity as to how it affects the  
21 value ascribed to the technology that we license out as to  
22 whether or not we are licensing something with the right to  
23 grant sublicenses or not.

24 Q Mr. Michaels --

25 THE COURT: Whoa, whoa, whoa, whoa.

1 MR. COLBY: That sounded an awful lot like an  
2 expert's CV. If Mr. Michaels is being offered as an expert, we  
3 think that's inappropriate and shouldn't be allowed. If Mr.  
4 Michaels wants to testify about something specific to Rembrandt  
5 and the Rembrandt license, which is at issue here, that may be  
6 a different story, but that sort of untethered expert testimony  
7 is improper because it's undisclosed expert testimony or it's  
8 improper lay opinion that requires technical or specialized  
9 knowledge.

10 MR. KODOSKY: And cert --

11 MR. COLBY: That's precisely what the witness just  
12 said.

13 MR. KODOSKY: I think, Your Honor, that they opened  
14 the door with Mr. Stastney's testimony on this in the first  
15 place. And to the extent that he's got direct experience  
16 working with thousands of licenses and speak to what parallel  
17 licensing means, it sounds like he said that it's a pretty  
18 basic concept that would benefit the Court to have that  
19 testimony.

20 THE COURT: Basic. So it's a basic concept that  
21 anybody would know without having to be an expert. I know what  
22 a sublicense is, and I'm not an expert.

23 MR. COLBY: This is -- but it's testimony. It's sort  
24 of free floating --

25 THE COURT: I mean --

1 MR. COLBY: -- expert testimony about what -- Mr.  
2 Stastney did address this, but again, that's based upon -- and  
3 Mr. Rajan, I believe, addressed this too. That's based upon  
4 the fact that they have been part of companies that were the  
5 counterparty to the Phillips license. Mr. Michaels is not.

6 THE COURT: And he was saying -- and so I will  
7 sustain -- can you sustain in part -- to the extent his  
8 testimony was as Rembrandt -- he said, I know as Rembrandt that  
9 we're a party to these things, I'll allow that. But just  
10 general free flowing, no, no, no.

11 So you have to ask him in the context of -- because  
12 he said he was -- he represented Rembrandt, he was involved, he  
13 know what all these things are. What does he -- based on that  
14 experience, what is his understanding of what a parallel  
15 license is versus a sublicense.

16 MR. COLBY: And I --

17 MR. KODOSKY: As allowed, Your Honor?

18 THE COURT: Wait a minute.

19 MR. COLBY: I apologize for interrupting, and I'm  
20 trying to be economical with my objections to keep moving, but  
21 I also think it's important to stay focused on the issues that  
22 the Court identified.

23 THE COURT: Why? I don't know -- well, and maybe  
24 they think it's important, and I get why they think it's  
25 important because they think that it's important. And maybe

1 I'm just -- never mind. Never mind. Then we're going to go  
2 off on a whole tangent.

3 Just go ahead. You can ask him and restrict it to  
4 his experience with Rembrandt.

5 BY MR. KODOSKY:

6 Q Restricted to your experience with Rembrandt, Mr.  
7 Michaels, does that change your answer at all?

8 MR. KODOSKY: Go ahead. I'm sorry.

9 THE COURT: What answer? We didn't allow the answer.

10 BY MR. KODOSKY:

11 Q Please answer the question as limited to your experience  
12 with Rembrandt.

13 A Sure. My experience with Rembrandt is that we are --  
14 Rembrandt is willing to license its technology on a non-  
15 exclusive basis with a -- with without a right to sublicense  
16 for a much smaller amount in terms of cash and TVs that will be  
17 provide to us. And we would, if somebody wanted to exclusively  
18 license our technology or obtain a license with the right to  
19 sublicense others. For example, if Stream were to enter the  
20 market with a no-glasses 3D TV, and Samsung or LG, or any large  
21 manufacturer wanted to go into business to manufacture a  
22 similar TV, they would approach Phillips, Rembrandt, and  
23 potentially Stream as well, and we would be able to negotiate a  
24 fee all over again. And at this point with a successful TV on  
25 the market, it would be worth even more. So it has a

1 substantial value to us to be in control of that technology,  
2 and it would have a substantial value to us that Stream and  
3 Rembrandt are collectively selling TVs that are the only no-  
4 glasses 3D TVs on the market. So it would -- I don't believe  
5 this is radical thinking that if you were the only one that can  
6 provide something that other people value, you can command a  
7 much higher price. So sub licensing or send -- send -- selling  
8 something to Hyundai Motors that they get manufactured with  
9 somebody who has no obligation to Stream or Rembrandt  
10 significantly hurts the value of the product that Rembrandt is  
11 hoping to acquire. And it would certainly hurt the value of  
12 Stream -- both of its intellectual property, its current  
13 assets, its ability to sell other TVs, et cetera.

14 Q Did you hear Mr. Rajan testify at the last hearing that  
15 SeeCubic, Inc is doing \$600,000 a month in revenue?

16 A Yes.

17 THE COURT: Who's doing 600,000 in revenue?

18 MR. KODOSKY: SeeCubic, Inc.

19 THE COURT: SeeCubic, Inc., okay.

20 BY MR. KODOSKY:

21 Q If the 600,000 in revenue is being diverted to another  
22 company, does that have an impact upon the Debtors or  
23 Rembrandt?

24 A Yes. The -- Rembrandt has current litigation pending  
25 against SeeCubic, Inc. Our motion for preliminary injunction

1 was denied because there was a monetary potential for a license  
2 fee even though that license fee is valued at roughly \$2  
3 billion. And to our knowledge, SeeCubic, Inc. does not have \$2  
4 billion to pay it. But diverting income and revenue to a  
5 different entity certainly compromises their ability to satisfy  
6 the likely judgment that's coming against them for their  
7 activities to date.

8 Q Did you hear Mr. Rajan testify in the last hearing that he  
9 believed that SCBV is essentially -- that SeeCubic, Inc. is  
10 bloating the expenses in the subsidiaries by \$650,000 a month,  
11 basically to have excess employees to work on SeeCubic Inc.  
12 projects as opposed to the four or five employees that would be  
13 needed to -- that he would believe would be necessary to work  
14 on the Stream TV projects?

15 A I -- I heard the testimony and have my own opinion.

16 Q What is your opinion?

17 THE COURT: Whoa --

18 MR. COLBY: Objection.

19 THE COURT: -- whoa, whoa, objection.

20 MR. COLBY: He can ask the question if he heard the  
21 testimony. I was preparing to object to the next question.

22 THE COURT: Which is? What was the next question?

23 MR. COLBY: I'm just waiting.

24 MR. KODOSKY: What is your opinion.

25 MR. COLBY: But I believe the question was --

1 THE COURT: About what?

2 MR. COLBY: -- what is your opinion about that.

3 MR. KODOSKY: The number of employees that SCBV  
4 needs, whether it's to be involved with Rembrandt associated or  
5 affiliated projects or SeeCubic Inc projects.

6 MR. COLBY: So Mr. Michaels has no factual basis  
7 whatsoever to be testifying about the work that's happening at  
8 SeeCubic BV or SeeCubic Inc. He may have an opinion about  
9 whatever Rembrandt work is happening, if there is any, but  
10 should not be permitted to testify as to his opinion as to  
11 staffing levels in a company he has no involvement with.

12 THE COURT: Counsel?

13 MR. KODOSKY: All Stream work, Your Honor, is  
14 Rembrandt work.

15 THE COURT: Well, that's all fine and well, but what  
16 knowledge does Mr. Micheals has of the operations of SC BV?

17 MR. KODOSKY: If the question is whether or not four  
18 or five key employees over the Netherlands versus the 30 or 40  
19 that SeeCubic is using to bloat the expenses over there.

20 THE COURT: How would he know?

21 MR. KODOSKY: That's what I was hoping to ask him.

22 THE COURT: No, you didn't ask -- okay.

23 MR. KODOSKY: He said that he's got an opinion on it.

24 THE COURT: So what? I can have an opinion on it  
25 too. That doesn't mean anything. No offense, Mr. Kodosky.



1 I'm not trying to be flippant. But you have to establish some  
2 basis as to how he would know, one, how many employees are  
3 necessary, how many projects, what's his basis for that?  
4 Presumably, he was involved in some develop -- I don't know why  
5 he would know that.

6 MR. COLBY: What work is being done.

7 THE COURT: Wait a minute.

8 MR. COLBY: Oh, sorry.

9 THE COURT: No, I said one, he would have to know how  
10 many employees for a -- what type of contract. How many is  
11 involved. The basis for his knowledge. And that, you know,  
12 based on his involvement in other projects, this is -- he can  
13 tell me that. That doesn't necessarily mean it's bloated. But  
14 he can tell me what he thinks is a good number, but he has to  
15 tell me how he would know that, just in general.

16 MR. KODOSKY: I believe he said that he was here at  
17 the last hearing.

18 THE COURT: I get he can hear whatever he wants. My  
19 question is what is his personal knowledge as to why. If he  
20 says I have been involved in projects developing whatever  
21 they're developing, and typically you need ten employees to do  
22 this type of work. Then that's his opinion as to how many  
23 employees are needed for that type of work. Then you can tie  
24 it up later, but you've got to tell me how he would even know  
25 that. Not necessary even related to SC BV.

1 MR. COLBY: That's my -- yeah.

2 THE COURT: Just to how many -- you know, we've --  
3 I've been involved in a project for Rembrandt when they were  
4 developing the glasses, I don't know. And you have -- in that  
5 project, we were doing proof of concepts for this dollar  
6 amount, and we had X amount of engineers or this amount of  
7 employees, and then you could somehow relate that. But he just  
8 can't say I think I heard somebody say.

9 MR. COLBY: Even, Your Honor, even I would still  
10 maintain that the objection goes beyond that. Even if Mr.  
11 Michaels were to testify in my past experience at Rembrandt, we  
12 did this type of work and we did this many people, if he's --  
13 he can't, by definition, because he doesn't know -- opine on  
14 the staffing levels at SeeCubic BV. And so if he can't do  
15 that, who cares, frankly what they're --

16 THE COURT: Well, he can if they're similar --  
17 similar projects.

18 MR. COLBY: But he doesn't know if it's similar  
19 projects.

20 THE COURT: Well, that's not --

21 MR. COLBY: So like there's no way --

22 THE COURT: Well, you haven't asked -- you haven't  
23 asked him what he knows.

24 MR. COLBY: -- no way to connect it over so it's --

25 THE COURT: I don't know what the point is.

1 MR. COLBY: -- it's by definition not relevant is  
2 what I was getting to.

3 THE COURT: But you don't know because he hasn't  
4 asked him what he knows and how he knows, other than he heard  
5 Mr. Rajan say it. That's the point. The point is you can't  
6 just because you heard somebody say, say I think this. You  
7 have to say based on my own knowledge -- this is how we staffed  
8 it. Based on my knowledge, this is what they're doing because  
9 Mr. Stastney has testified to what these projects are and who  
10 they're for. He may say based on my experience, we did this  
11 based on what I heard Mr. Stastney say, I think this. But you  
12 got to give me something other than he heard somebody say.

13 MR. KODOSKY: Actually, Mr. Stastney refused to tell  
14 us who their projects were for.

15 THE COURT: Doesn't care what he told you who it was  
16 for. He told you what they were doing. But that doesn't  
17 matter. You still have to establish how Mr. Micheals would  
18 know what is proper staffing.

19 BY MR. KODOSKY:

20 Q What personal knowledge, Mr. Micheals, do you have  
21 regarding proper staffing levels at SC BV?

22 A My -- I used to be CEO of New Pics, LLC (phonetic). We  
23 received roughly four million dollars in New York State Energy  
24 Research Development grants. We built our displays from  
25 scratch. We built all of our own production equipment. We

1 built those displays with the head of the company, the founder,  
2 Chad Mower (phonetic). And he had a technical assistant, and I  
3 would go over every once in a while, to assist. But we were  
4 able to build the world's largest plasma address liquid crystal  
5 display at the time with two full time people and me helping  
6 out every once in a while.

7 Q Tell us how that relates to SC BV?

8 MR. COLBY: I object.

9 THE WITNESS: The --

10 THE COURT: Well, woah. He's objecting.

11 MR. COLBY: Yeah, I object. There again, we've  
12 gotten very far from what's supposed to be the core issue of  
13 this TRO hearing. Mr. Michaels' view on staffing levels have  
14 nothing to do with whether or not there's some threat to the  
15 Phillips license or whether or not there are adequate  
16 protections around trade secrets. We are so far afield right  
17 now, and we just need to focus on the issues the Court  
18 identified and move on.

19 THE COURT: All right, Mr. Kodosky, he's objecting on  
20 the basis of relevance. How is this relevant to me deciding  
21 whether I'm going to issue a preliminary injunction?

22 MR. KODOSKY: I have nothing further, Your Honor.  
23 We'll reserve for rebuttal.

24 THE COURT: All right.

25 MR. KODOSKY: Thank you.

1 THE COURT: All right. For redirect, okay.

2 Mr. Colby, you got about -- I'm going to -- what is  
3 the motion? What do they say? Okay. Of course, they say  
4 whatever I want.

5 MR. COLBY: It's nice to be the judge.

6 THE COURT: Yeah. Three dollars will get me a cup of  
7 coffee.

8 All right. Go ahead.

9 CROSS-EXAMINATION

10 BY MR. COLBY:

11 Q Mr. Michaels, you described earlier today a process when  
12 you examined the Stream TV technology. Do you recall that  
13 testimony?

14 A Yes.

15 Q That was in 2019, correct?

16 A It would have -- that would have been in 2017, '18, '19.  
17 We've done so again in '20, '21, and '22. I don't know that --  
18 again, I think early 2023, we've looked at various aspects of  
19 the Stream TVs.

20 Q Okay. You've not conducted that type of examination of  
21 any technology that's being used by SeeCubic BV in 2023,  
22 correct?

23 MR. KODOSKY: Object. Misstates his testimony. He  
24 said that some of it was in 2023.

25 MR. COLBY: He said 2022. I'm asking --

1 THE COURT: He said early 2023.

2 THE WITNESS: In '23.

3 BY MR. COLBY:

4 Q Okay. So but the units that you examined, those came from  
5 who? From Stream TV?

6 A Yes, and more accurately, people they sold TVs to supply  
7 some of those TVs for Rembrandt.

8 Q Okay. And the units that are being used by the folks at  
9 SeeCubic BV in 2023, you've not examined those in 2023,  
10 correct?

11 A I have not.

12 Q So you're not in a position to testify about what trade  
13 secret protections are in place on the technology that's being  
14 used by SeeCubic BV in 2023, correct?

15 A Our understanding -- that, I don't believe, is correct.  
16 And our understanding comes from SeeCubic's position in the  
17 Delaware litigation. Part of the unknown, and that we would  
18 find out in discovery very early, is whether or not SeeCubic  
19 has been making anything.

20 One of the issues that was raised by both parties is  
21 whether or not everything that SeeCubic has been providing or  
22 offering for sale was provided by Stream, which would mean that  
23 it was licensed and therefore, they would not be liable for  
24 patent infringement and for trade secret misappropriation for  
25 offers to sell or sales of those TVs. If you are representing

1 to us that SeeCubic is --

2 THE COURT: Wait a minute. That's enough. That's  
3 enough. That's enough. That's enough.

4 BY MR. COLBY:

5 Q Mr. Micheals, I'm simply asking whether or not you've  
6 conducted that type of examination on the units that are being  
7 used by SeeCubic BV in 2023. I think the answer was no,  
8 correct?

9 A I have not conducted that in -- that -- I'm not aware that  
10 SeeCubic has made anything. And so my understanding is that  
11 they were largely selling or entirely selling products made by  
12 Stream TV. If SeeCubic is actually making product, I  
13 appreciate that information. That will be helpful.

14 Q I'm asking about --

15 A But right now --

16 THE COURT: So he said no because they haven't  
17 produced any.

18 BY MR. COLBY:

19 Q Right. I'm asking about SeeCubic BV.

20 A I understand.

21 Q Okay.

22 A Oh, SeeCubic BV.

23 Q Yes.

24 A I -- SeeCubic BV, my understanding is that their efforts  
25 were incorporated into the TVs sold by Stream TV. So yes, I

1 believe I have reviewed what they have been preparing to my  
2 knowledge today.

3 Q And to the extent that that's true, the last time that you  
4 conducted that exam -- that type of examination was in early  
5 2023?

6 A Yes. I'd have to look at the -- it was about the time  
7 that we -- I sent the email to Ian Lifton (phonetic) and then  
8 shortly thereafter, we had accessed additional units to review.

9 Q And Mr. Micheals, you -- the proof-of-concept projects  
10 that have been talked about in this hearing, you have not had  
11 any opportunity to examine the technology that is -- I'm sorry.  
12 Let me start that over again. The proof-of-concept projects,  
13 you're not involved in those, correct?

14 A I am not personally involved in those projects, no.

15 Q You're not an employee of SeeCubic BV?

16 A I am not an employee of SeeCubic BV.

17 Q You're not a principal of SeeCubic BV?

18 A I am not.

19 Q You've not been a party to any conversations that SeeCubic  
20 BV may have had with the counterparties to those proof-of-  
21 concept projects?

22 A Only in the respect of our communications with the  
23 independent director.

24 Q Right.

25 A And I should add, Mathu Rajan and Bud Robertson (phonetic)



1 to the extent they had knowledge and were involved in those  
2 conversations.

3 Q Right. You personally -- you personally haven't been  
4 involved in those conversations, correct? With the  
5 counterparties on these proof-of-concept projects, right?

6 A With the counterparty, no. Not -- I haven't directly  
7 spoken to any of the counterparties.

8 Q The units that you examined in early 2023, do you know  
9 when they were manufactured?

10 A I do not, but it is -- I don't know the exact date of  
11 manufacture. But I believe that it was prior to the omnibus  
12 agreement being signed.

13 Q Okay. So prior to 2020 or earlier?

14 A Yes.

15 Q So you've not examined any of the devices that have been  
16 manufactured, if any, at SeeCubic BV since 2020?

17 A Not that I'm aware of, no.

18 Q Mr. Micheals, you don't know whether or not the projects  
19 that are currently being worked on at SeeCubic BV, you don't  
20 know whether or not those use any Rembrandt technology,  
21 correct?

22 A I'm not sure I follow exactly the negatives in your  
23 question. It is our understanding that those projects are  
24 incorporating Rembrandt technology and Phillips technology.

25 Q You're not involved in those projects, correct?

1 A I am not directly talking to the third parties, and I am  
2 not an employee or officer of SC BV. Those are the questions  
3 you asked me. But I'm -- I've been provided information about  
4 those projects, and I've heard testimony about those projects  
5 by Shadron Stastney. So I -- so our understanding, giving you  
6 my best understanding, is that it includes our technology.

7 Q Right. Your understanding is based upon what you've heard  
8 here in this courtroom?

9 A It's based on conversations with people that have examined  
10 those products. It's based on what -- we included pictures in  
11 our Delaware complaint of what SeeCubic was offering. It's  
12 part of the evidence. It's based on what SeeCubic has put on  
13 its own website. I mean, there's -- there's a very large  
14 complaint with a large number of exhibits in the Delaware  
15 complaint that was filed back in March that details our basis  
16 for bringing that case and making those allegations. And I can  
17 go on at length, but we have beliefs and understanding that  
18 that tech -- those projects include our technology.

19 Q Right. I guess I'm asking a more precise question. Given  
20 that you have no first-hand involvement in those projects, you  
21 don't know whether or not they rely on any Rembrandt  
22 technology. You don't know that first-hand, correct?

23 A I don't agree with that statement.

24 Q You do agree with the statement that you don't have any  
25 involvement in those -- any first-hand involvement in those

1 projects, correct?

2 A I do.

3 Q Mr. Michaels, you've not been party to any conversations  
4 between SeeCubic Inc and Phillips, correct?

5 A I have not been on the phone when SeeCubic has spoken to  
6 Phillips. That is correct.

7 Q And you have no first-hand involvement in the current --  
8 you have no first-hand involvement in the current security  
9 arrangements around trade secrets in IP at SeeCubic BV,  
10 correct?

11 A I'm -- you need to repeat -- I didn't follow that, I'm  
12 sorry. I'm not --

13 Q Sure.

14 A Just not understanding what you --

15 Q Sure. You don't work at SeeCubic BV, correct?

16 A I do not work at SeeCubic BV.

17 Q Right. So you're not involved in -- you have no first-  
18 hand involvement in whatever protections SeeCubic BV currently  
19 has around trade secrets and IP, correct?

20 A I do not.

21 MR. COLBY: Just one minute, Your Honor.

22 THE COURT: Uh-huh.

23 MR. COLBY: I don't have any other questions at this  
24 time, Your Honor.

25 Mr. Caponi may.

## CROSS-EXAMINATION

1  
2 BY MR. CAPONI:

3 Q Good afternoon, Mr. Micheals. Steve Caponi from K&L  
4 Gates. How are you?

5 A Good.

6 Q Good. So you were involved with the New York litigation  
7 we've been discussing today, correct?

8 A Yes.

9 Q And you participated in the mediation, correct?

10 A Yes.

11 Q And the mediation when the mediation concluded, did not  
12 result in a settlement, correct?

13 A Incorrect.

14 Q You filed a motion with the magistrate arguing that a  
15 settlement had been reached and the magistrate rejected that  
16 argument, correct?

17 A Incorrect.

18 Q Are you aware that the magistrate issued a written  
19 decision rejecting the notion that the mediation had resulted  
20 in a settlement?

21 A I am aware that the magistrate provided a writing. It was  
22 not a decision and it held that there were two types of  
23 potential agreement, a phase 1 or a phase 2. And then she  
24 recommended that the action be taken to the district court to  
25 litigate further and have a hearing as to whether or not it was

1 a phase 1 agreement. And as part of that, the -- we were  
2 proceeding down that path when the bankruptcy case was filed.  
3 We notified the court to stay the proceedings to continue the  
4 case. We were then proceeded to -- when the bankruptcy was  
5 dismissed, we then proceeded to reenter mediation and  
6 settlement discussions that resulted in the settlement  
7 agreement that we have today.

8 Q When was the mediation?

9 A We started our mediation in 2018 and had numerous sessions  
10 related to settlement and mediation, many of them outside the  
11 presence of --

12 Q Mr. Micheals, I appreciate that. My question was more  
13 direct. What year was the mediation?

14 MR. ZAHRALDDIN: Objection, Your Honor.

15 THE COURT: Which mediation? He said --

16 MR. CAPONI: The mediation in New York.

17 THE COURT: He said they'd started in whatever and  
18 then it was stayed and then they started after the bankruptcy.

19 MR. CAPONI: I'm getting there.

20 BY MR. CAPONI:

21 Q When did the mediation in New York start, Mr. Michaels?

22 A It started in 2018.

23 Q And when did the magistrate issue a writing, as you call  
24 it, saying that a settlement agreement had not been reached?

25 A I'd have to look back. I think it was 2020-ish. Because

1 it had come out -- or maybe it was 2021, because we were  
2 actively working on our response and preparing for the hearing  
3 when Stream filed for bankruptcy in the first instance.

4 Q And it's your testimony that the magistrate found that  
5 there was a possibility that a settlement had been reached and  
6 you just needed further proceedings in front of the district  
7 court?

8 A It is our -- I mean, it says what it says. I mean, it's  
9 right in the record. I'm not trying to -- I would rather not  
10 even characterize it. But it is certainly not true that she  
11 made a decision. She didn't have the power to do what you're  
12 proposing. But it -- she provided a writing that is on the  
13 record that can be reviewed. We talked about how we're getting  
14 far afield. I -- there is a written settlement agreement that  
15 the parties reached.

16 Q Excuse me, Mr. Micheals, I'm not asking you to --

17 THE COURT: All right, woah, woah, woah, woah.

18 MR. KODOSKY: Objection, Your Honor.

19 MR. ZAHRALDDIN: Objection, Your Honor.

20 THE COURT: Woah, woah, listen. I get it. She wrote  
21 an opinion. It says what it says. He has his interpretation.  
22 She's a magistrate. They only have so much power.

23 MR. CAPONI: Okay. One more question, Your Honor.

24 THE COURT: They only have so much power.

25 BY MR. CAPONI:

1 Q Mr. Michaels, that magistrate that you said had no  
2 authority to determine whether there had been a settlement,  
3 that was the magistrate who oversaw the mediation, correct?

4 A It was Magistrate Parker, yes, Katharine Parker.

5 Q So to answer my question, the judicial officer in front of  
6 whom you mediated was the magistrate that issued that opinion,  
7 correct?

8 A Yes.

9 Q Thank you.

10 MR. ZAHRALDDIN: Objection, Your Honor.

11 THE COURT: What basis? It's -- look. I'm not -- I  
12 don't know what this --

13 MR. ZAHRALDDIN: Mischaracterizing the witness's  
14 testimony.

15 THE COURT: It is what it is.

16 MR. ZAHRALDDIN: He restated it and said, oh, it's an  
17 opinion.

18 THE COURT: The magistrate -- listen.

19 MR. ZAHRALDDIN: It's a typical gotcha maneuver.

20 THE COURT: The magistrate said what they said. The  
21 ultimate determination belongs with a different court. I'm not  
22 an idiot and I wish you guys would stop it. The magistrate --  
23 the same way there are certain things that I can make a final  
24 determination on and there's certain things I cannot. I could  
25 issue whatever I want on matters that I do not have the

1 authority to make a final determination. I issue. I say what  
2 I say. I send it to the district court. The district court  
3 makes the final determination.

4 So I can say whatever I want to say on matters that I  
5 do not have the authority to make a final decision and I am in  
6 basically the same role on certain things as the magistrate  
7 judge. So I don't know what you guys are wasting your time  
8 for. The magistrate can say whatever he or she wanted. Is  
9 there a ruling by the district court, otherwise, I don't want  
10 to hear it.

11 You guys can fight, put it in the record, it doesn't  
12 matter to me what is what. Okay. And I don't know what this  
13 has to do with anything, and I don't know why you even -- I  
14 mean, why he's even talking about that. It is what it is.

15 So Mr. -- you want to follow up, Mr. Caponi?

16 MR. CAPONI: Yes, Your Honor.

17 THE COURT: Because you want to tell me the district  
18 court?

19 MR. CAPONI: Just to tie the bow on it.

20 BY MR. CAPONI:

21 Q Mr. Michaels, the district court adopted and approved the  
22 magistrate's writing, as you refer to it, correct?

23 A I don't remember. I mean, it's in the record. We reached  
24 a settlement agreement. None of this is -- I don't --

25 Q Mr. Micheals, that wasn't my question.



1 THE COURT: All right, so.

2 MR. KODOSKY: Objection, Your Honor.

3 THE COURT: So he said he doesn't remember. Somebody  
4 want to tell me, was the report -- because it would have  
5 been --

6 MR. CAPONI: Yes, Your Honor. We'll give it to Your  
7 Honor.

8 THE COURT: Yeah. Resubmit it.

9 MR. CAPONI: The magistrate's report was affirmed by  
10 the court.

11 THE COURT: A report and -- I would have done a  
12 report and recommendation. My report and recommendation don't  
13 mean anything because the district court tells me they go and  
14 got it.

15 MR. CAPONI: Your Honor, I will submit it to you.

16 THE COURT: Right. And somebody gives me -- because  
17 he said they resumed mediation. I don't know how you -- I  
18 don't know.

19 MR. CAPONI: You'll see it in the record, Your Honor.  
20 It's crystal clear.

21 THE COURT: All right.

22 MR. CAPONI: Thank you.

23 THE COURT: And if somebody want to give me the  
24 docket, they can give me the docket.

25 Yes, counsel?

1 MR. DEMARCO: Yes, Your Honor. Just request that my  
2 client be able to finish the answer to that question. I  
3 believe he was still talking when there was an interjection --

4 UNIDENTIFIED SPEAKER: Interruption.

5 MR. DEMARCO: -- between.

6 THE COURT: All right. So his answer was he does not  
7 recall whether the District Court adopted it or not, which does  
8 not necessarily mean it was the end of the litigation. It  
9 could have meant the District Court sent you guys back to the  
10 magistrate. I don't know. Somebody give me the dockets.

11 MR. DEMARCO: That's right.

12 THE COURT: Okay. Because I think his testimony is,  
13 is that we started a mediation and then the District Court said  
14 there wasn't or the magistrate said something. That was the  
15 bankruptcy, then we went back and resumed mediation, which  
16 possibly could have happened because unless the District Court  
17 dismissed the matters, it would have still been pending. So  
18 somebody give me the dockets. I don't know what the relevance  
19 is. Can somebody tell me what the relevance is?

20 You brought it up, Mr. Zahralddin. Your client  
21 brought it up.

22 MR. ZAHRALDDIN: Well, we -- you're right, Your  
23 Honor. So the relevance of the settlement is only the fact  
24 that we got to a settlement eventually. Whether or not --  
25 there was determinative -- even if -- let's say -- because I

1 haven't looked at the very end of this record in a while.

2 Let's say the settlement was pushed aside. That doesn't end  
3 the litigation. That means it's open litigation. All I know  
4 is when they approached us --

5 THE COURT: All right. Just --

6 MR. ZAHRALDDIN: -- there was a settlement.

7 THE COURT: Put the docket in an I will --

8 MR. ZAHRALDDIN: Yes.

9 THE COURT: To the extent it's relevant. I don't  
10 know what the relevance is, but put it in. Put in in.

11 MR. ZAHRALDDIN: We will do so. Thank you, Your  
12 Honor.

13 THE COURT: All right.

14 MR. DEMARCO: I have no further questions, Your  
15 Honor.

16 THE COURT: All right. Any further for you, Mr.  
17 Colby or Ms. Brumme?

18 MR. COLBY: No, Your Honor.

19 THE COURT: Okay. Any redirect?

20 MR. ZAHRALDDIN: Briefly, I think, Your Honor.

21 THE COURT: All right.

22 MR. KODOSKY: Just very briefly, Your Honor.

23 THE COURT: Okay. Yes and it has to be limited to  
24 what these two gentleman asked, okay?

25 MR. KODOSKY: Understood. Thank you, Your Honor.

1 REDIRECT EXAMINATION

2 BY MR. KODOSKY:

3 Q Mr. Michaels, you were asked whether or not you were -- if  
4 you had participated in any of the conversations that SeeCubic  
5 Inc. has had with Phillips. Do you recall receiving that  
6 question from Mr. Colby?

7 A Yes.

8 Q If SeeCubic, Inc., has no license agreement with Phillips,  
9 what business or what basis -- or I guess, what potential for  
10 harm exists by SeeCubic, Inc., having conversations with  
11 Phillips about the license agreement?

12 MR. COLBY: Objection, Your Honor.

13 THE COURT: Yes.

14 MR. COLBY: It's a question about two parties of  
15 which Mr. Michaels doesn't belong.

16 MR. KODOSKY: He asked the original question, Your  
17 Honor --

18 MR. COLBY: He's asking --

19 MR. KODOSKY: -- as to whether or not he participated  
20 in any of those conversations. And I'm asking if they should  
21 even be having those conversations with Phillips, if it's -- if  
22 they're not a party to the agreement.

23 MR. COLBY: He has no first hand knowledge of what  
24 those conversations were.

25 MR. KODOSKY: He asked him the question.

1 MR. COLBY: If --

2 THE COURT: Wait. Woah. Woah.

3 MR. COLBY: -- if any, so how could he render an  
4 opinion on harm that could come from conversations that he's  
5 not a part of, has no idea what they're about? No idea if they  
6 occurred, when they occurred, who they were with.

7 THE COURT: Or if they even occurred.

8 MR. COLBY: Or if they even occurred.

9 MR. KODOSKY: He asked the question, Your Honor.

10 THE COURT: I know the question, counsel, was Mr.  
11 Michaels, were you party to any conversation between SeeCubic  
12 Inc. --

13 MR. KODOSKY: Yes.

14 THE COURT: -- and --

15 MR. KODOSKY: Phillips.

16 THE COURT: -- Phillips. Okay. He said no, so the  
17 question is -- okay. Your question is, should they have been  
18 having a conversation. Based on what? I'm asking him.

19 MR. COLBY: Yeah.

20 MR. KODOSKY: And I'll ask him the same question  
21 related to Rembrandt.

22 BY MR. KODOSKY:

23 Q If Rembrandt was contacted by SeeCubic Inc., regarding the  
24 Stream TV license agreement with Rembrandt, would that be  
25 appropriate?

1 MR. COLBY: Objection. It calls for speculation.

2 MR. KODOSKY: It goes to the harm. He stood up here  
3 30 minutes ago saying we're not showing any harm.

4 THE COURT: All right, but that's not the point,  
5 Mister --

6 MR. KODOSKY: Kodosky.

7 THE COURT: -- Kodosky. The question is, when you  
8 get to redirect, you get to ask him questions related to the  
9 questions that were asked by the other parties on cross. The  
10 only questions that Mr. Colby had and I'm -- and I apologize.  
11 I'm about to forget Mr. Colby's name and I apologize. Same as  
12 Kodosky. I'm -- it's getting late. I'm stuttering on names.  
13 The only thing that he asked him was what -- with respect to  
14 did you examine the Stream TV technology? He said he did.

15 Did he examine the SCBV units? No. And was he able  
16 to determine if they were different? Asked him about the proof  
17 of concept projects, the current projects. Then he asked him,  
18 did -- he was party to any conversation with Phillips and then  
19 he had firsthand knowledge of any security arrangements between  
20 SCBV currently have with respect to the units that are, if any,  
21 being produced. So you can ask him anything with respect to  
22 those areas.

23 MR. KODOSKY: He was -- Your Honor, he was  
24 specifically asked whether or not he participated in any of the  
25 conversations between SeeCubic, Inc. -- and I've got it written

1 down on my notes and Phillips.

2 THE COURT: And he said he wasn't.

3 MR. COLBY: So --

4 MR. KODOSKY: My answer is no.

5 MR. COLBY: And --

6 MR. KODOSKY: My question to him is --

7 THE COURT: Woah, woah, woah.

8 MR. KODOSKY: Let me finish --

9 THE COURT: Let him finish, Mr. Colby.

10 MR. KODOSKY: -- Mr. Colby. My question to him is,  
11 is it appropriate for a nonparty to the license agreement to be  
12 having conversations with the licensor?

13 THE COURT: But the --

14 MR. KODOSKY: He's a licensor, Rembrandt.

15 THE COURT: But the assumption is is that they were  
16 talking about the license with Phillips and the Stream entities  
17 and we have no information about what SeeCubic, Inc., was  
18 talking to Phillips about.

19 MR. KODOSKY: And my only question is, is it even  
20 appropriate for a nonparty to be speaking to the licensor about  
21 somebody else's license agreement?

22 THE COURT: But we don't -- be the -- sustained.

23 MR. KODOSKY: Okay. Thank you, Your Honor.

24 THE COURT: Sustained. Sustained. Okay. next  
25 question. That's it?

1 MR. KODOSKY: Thank you, Your Honor. That's all.

2 THE COURT: All right. Anything else from anybody  
3 with respect to Mr. Michaels?

4 MR. COLBY: Not from me, Your Honor.

5 MR. CAPONI: Not from me, Your Honor.

6 THE COURT: All right. Mr. DeMarco, do you have any  
7 questions?

8 MR. DEMARCO: No, Your Honor. Just if my client may  
9 be allowed to, I guess, return home to Florida -- his folks.

10 THE COURT: To do what?

11 MR. DEMARCO: Just to step down.

12 THE COURT: Oh, okay. All right, Mr. Michaels,  
13 unless you want to stick around and listen, you are excused.  
14 I -- you may --

15 THE WITNESS: Thank you, Your Honor.

16 THE COURT: -- you can stay and listen, but not as a  
17 witness, just as an observer or as counsel for -- co-counsel  
18 for Mister --

19 MR. BLUMENTHAL: Blumenthal.

20 THE COURT: I'm sorry. I was trying to --

21 THE WITNESS: Understood Your Honor. I will stick  
22 around but I'm going to go stop my video and go on mute.

23 THE COURT: Okay. Thank you. All right. So does  
24 the Debtor rest with respect to its request for a TRO,  
25 preliminary injection, rest in its case in chief with the right



1 to recall, I guess?

2 MR. ZAHRALDDIN: We do, Your Honor.

3 THE COURT: All right. Mr. Colby, it's -- do you  
4 want to start with Mr. Stastney or do you want to --

5 MR. COLBY: So, take our cues from the Court.

6 THE COURT: Well, how long do you think?

7 MR. COLBY: Well, I think for a direct, I'm guessing,  
8 but 60 to 90 minutes.

9 THE COURT: Oh, Lord. Okay. That will take us to  
10 7:00 -- I was prepared to go to 7:30.

11 MR. COLBY: If we're lucky --

12 THE COURT: Right.

13 MR. COLBY: -- it'll take us to 7:30. There's also a  
14 matter we were just hoping to get some clarity on and that is  
15 exactly what we'll be doing on Wednesday, so we know whether or  
16 not we need to be here or not be here.

17 THE COURT: Wednesday -- what is on for Wed --

18 UNIDENTIFIED SPEAKER: Wednesday is the 2019 motion,  
19 Your Honor.

20 MR. COLBY: And so -- sorry. Before we get into it,  
21 I guess I'm asking the Court's preference whether we start with  
22 Mr. Stastney, which we're happy to do all the issues are still  
23 fresh or whether we talk about what we're doing on Wednesday.  
24 I suspect that will eat up a little bit of time.

25 THE COURT: A lot of time. It always does.

1 MR. COLBY: The way these things go.

2 THE COURT: Well, it would make -- well, do you think  
3 it would make sense to have Mr. Stastney's direct testimony and  
4 then we can have him just come back for cross and then redirect  
5 or would you prefer it to be all on one day?

6 MR. COLBY: I think it's generally better when it's  
7 all on one day.

8 THE COURT: Okay. I do, too, but I'm giving you that  
9 option. So that means that we're not going to start Mr.  
10 Stastney and that means we can devote some time to figuring out  
11 what will happen on Wednesday. I will be honest, at this  
12 point, my mind is a little -- what are we -- what is listed for  
13 Wednesday? Was Mr. -- is Mr. Parks' on -- application on?

14 UNIDENTIFIED SPEAKER: No, ma'am. We moved that to  
15 December the 11th.

16 THE COURT: Okay. What's on -- that -- everybody's  
17 understanding of what's on for the 20 -- for the 29th, right?

18 MR. KODOSKY: It's simply the 2019 motion.

19 THE COURT: Which is to --

20 MR. KODOSKY: The 2019 motion.

21 THE COURT: -- whether they were required on the 2019  
22 whatever to disclose --

23 MR. KODOSKY: Well, required and obviously, it's  
24 continuing disclosure.

25 THE COURT: All right.

1 MR. KODOSKY: Even -- I mean, it's --

2 THE COURT: That's it?

3 MR. KODOSKY: That's it.

4 THE COURT: Do we need just legal argument on that or  
5 do we need some evidence?

6 MR. CAPONI: Your Honor, so from our perspective, we  
7 think it's a legal issue.

8 THE COURT: That's what I'm thinking.

9 MR. ZAHRALDDIN: It's my motion.

10 MR. CAPONI: But it's the Debtor's motion.

11 MR. ZAHRALDDIN: It's my motion, so you know --

12 MR. CAPONI: As I said before, the Debtor is the  
13 conductor of their own symphony.

14 MR. ZAHRALDDIN: -- I would, except for someone who  
15 keeps trying to take it over, so --

16 THE COURT: All right. Listen. All right, guys.  
17 I'm the only one that can be snarky.

18 MR. ZAHRALDDIN: I'm not trying to be snarky. I'm  
19 stating a fact. You asked me and then Mr. Caponi had to answer  
20 instead.

21 THE COURT: All right.

22 MR. CAPONI: Sorry. I thought you pointed at me. I  
23 didn't mean to jump in.

24 THE COURT: Okay. all right. I'm the only one that  
25 gets to jump in. So Mr. --

1 MR. ZAHRALDDIN: Your Honor --

2 THE COURT: -- Zahralddin.

3 MR. ZAHRALDDIN: -- I think that --

4 THE COURT: You believe --

5 MR. ZAHRALDDIN: -- only Mr. Rajan would be a witness  
6 on Wednesday.

7 THE COURT: About what?

8 MR. ZAHRALDDIN: Well, Mr. Rajan has the knowledge  
9 about the various parties. In their responses, the opponents  
10 to the motion indicated that we were trying to get information  
11 that we already know about, et cetera. I don't believe that's  
12 the case. I believe that it doesn't matter what was given in a  
13 prior proceeding. 2019 is an ongoing and temporal disclosure  
14 requirement. It can happen at any time and it really just  
15 comes from whether or not a parties (sic) were acting in  
16 concert.

17 The only thing that's relevant prior to this, I think  
18 has already been put into the record. You know about the  
19 omnibus agreement. You know about the continuing lack of  
20 compliance with post remand injunctions. So the only thing  
21 that we would need to put forward is what's happened here as  
22 well as the -- we -- I guess we have documents or we have  
23 discussions of documents in the prior proceedings in Chancery  
24 Court, but we've never seen those and they have not been  
25 produced here, which is the important issue.

1           So if Your Honor believes we don't need an  
2 evidentiary hearing --

3           THE COURT: Counsel, I don't beli -- I don't tell  
4 people how to run their cases. I just thought the issue was  
5 who was subject to the rule.

6           MR. ZAHRALDDIN: Yes.

7           THE COURT: And you believe that the response, which  
8 I have not looked at -- I'll look at tonight or tomorrow,  
9 probably tomorrow and research whatever I need to do.  
10 Hopefully not all night long. And hopefully my staff won't  
11 be -- my law, my two law -- well, my law clerks will not have  
12 to spend their night, either, looking at, you know, trying to  
13 figure this out and we'll have discussions about what is the  
14 issue. But you believe that on the 2019 C, that the  
15 information should be disclosed because --

16           MR. ZAHRALDDIN: The parties were acting in concert.

17           THE COURT: What parties were acting in concert?

18           MR. ZAHRALDDIN: Hawk, SeeCubic. I think about -- I  
19 believe it's 50 some odd shareholders that were subject to the  
20 omnibus agreement, whoever these eight or nine or other people  
21 that Mr. Caponi has mentioned in court, Mr. Morton (phonetic),  
22 Albany (phonetic). They have filed concerted actions. They  
23 filed the motion to dismiss together. They filed the motion  
24 for a trustee together and all of that --

25           THE COURT: So you believe disclosures by groups,

1 committees and entities. And you believe that the -- either  
2 the group -- well, we know they're not a committee. They're  
3 either groups or entities who are required to disclose a  
4 verified statement setting forth the information in paragraph  
5 C, which you know, just the information portion.

6 MR. ZAHRALDDIN: Yes, Your Honor.

7 THE COURT: Okay. And that you believe that really  
8 what I have to determine is whether these groups of creditors,  
9 parties, whatever we're calling them, fit the definition of  
10 group or entities who are required to comply --

11 MR. ZAHRALDDIN: Yes.

12 THE COURT: -- with the 2019 --

13 MR. ZAHRALDDIN: An entity is a definition broader  
14 than a person.

15 THE COURT: Right. I know. Okay.

16 MR. ZAHRALDDIN: And it's in the bankruptcy code and  
17 it encompasses all kinds of things.

18 THE COURT: So -- and the response was we're not  
19 required to comply because we don't meet these definitions.

20 MR. ZAHRALDDIN: And they said they had individual  
21 counsel, et cetera, but that's not the test, so we will look at  
22 that on Wednesday.

23 THE COURT: All right. Okay. But isn't that just a  
24 legal issue as to what does that mean, who is required to be --  
25 to comply with 2019? I guess if I made a finding as to what

1 that means, I would then have to apply that legal definition to  
2 the various entities who the Debtor has asserted must comply.

3 MR. ZAHRALDDIN: And any actions --

4 THE COURT: And then I will need some evidence of who  
5 these people are, unless you stipulate that -- who they are.  
6 Not their relationship, but you believe that these are the  
7 various persons, who you believe it applies to and why you  
8 believe. And Mr. Caponi says these are the various people, but  
9 I don't think it applies. We all agree that who the various  
10 people, person entities groups are?

11 MR. ZAHRALDDIN: Well, some have not been disclosed,  
12 other than on the record, we've heard hints of things.

13 THE COURT: Okay.

14 MR. ZAHRALDDIN: And we have stuff that's been put  
15 into the record in the Chancery Court.

16 THE COURT: All right.

17 MR. ZAHRALDDIN: But you know, if --

18 THE COURT: So I'm going to need some evidence  
19 because even if I conclude that this is what it means, I still  
20 have to say, do these people constitute a group, do they  
21 constitute an entity and how? I can -- so if I have a legal  
22 argument, that's great, but I need to apply the legal argument  
23 to the facts of the matter.

24 MR. ZAHRALDDIN: And it would be things that are  
25 occurring -- that occurred now and before and they're all

1 judicial actions --

2 THE COURT: So you can --

3 MR. ZAHRALDDIN: -- whether contract --

4 THE COURT: So can you guys stipulate to that or --

5 MR. ZAHRALDDIN: I would love to do that and just do  
6 argument. We can stipulate that the omnibus agreement exists.  
7 We can stipulate that the side letter agreement exists.

8 THE COURT: What you do -- this is what you do. You  
9 can talk to Mr. Caponi. You guys can stipulate to the facts.  
10 I'm not telling you you have to. And then you just come in,  
11 you say this is what this means and this is why it doesn't  
12 agree, it doesn't apply in these facts or you can't agree and  
13 you bring somebody who has to tell me who the groups are, the  
14 entities are and then make your legal arguments and I have to  
15 figure out do these groups, entities, not committees, are they  
16 subject to the 2019. So you guys can either agree to all these  
17 things or you can make a record.

18 MR. ZAHRALDDIN: Yes, ma'am.

19 THE COURT: So that's what I expect. And what time  
20 is this scheduled for on Wednesday?

21 UNIDENTIFIED SPEAKER: Oh, I think it's --

22 MR. ZAHRALDDIN: 11:30, I think.

23 THE COURT: We have an 11:30 list?

24 THE CLERK: It's Number 3 on the 11:30 list.

25 THE COURT: How many we have on the 11:30 list?



1 THE CLERK: Three.

2 THE COURT: Oh, okay. Show up at 12:00.

3 MR. ZAHRALDDIN: Okay.

4 THE COURT: Who else we have? Back up. Let me see  
5 who we have before --

6 THE CLERK: Number two is something settled, stippled  
7 to be filed.

8 THE COURT: Okay. And then number one.

9 THE CLERK: And number one --

10 THE COURT: Settled --

11 THE CLERK: Number one is a confirmation hearing for  
12 like a chapter 11 investment, 1982 Investment, LLC.

13 THE COURT: And did they file a report of planned  
14 voting? Because if they didn't, I don't think I'm having a  
15 confirmation hearing. That could take a while.

16 THE CLERK: Yeah. October 13. Wait. Hold on.

17 THE COURT: I have to -- I'm -- I just don't want you  
18 guys to come here. And sit and have to wait and Wednesdays  
19 tend to be on 11:30 I never know what I'm going to get. We  
20 have two matters before you. One is resolved. Right?

21 THE CLERK: Correct.

22 THE COURT: And the second one is a confirmation  
23 hearing?

24 THE CLERK: Yeah. I just want to get on to the  
25 actual docket.

1 THE COURT: Right. If they don't have a report of  
2 plan voting, I'm not having confirmation hearings --

3 THE CLERK: I see it. It's a Chapter 11.

4 THE COURT: -- then you guys might as well show up at  
5 11:30.

6 THE CLERK: October 13th. Report of planned voting  
7 filed on October 13th.

8 THE COURT: Oh, yeah. Well, I guess I'm having a  
9 hearing. 12:30. Show up at 12:30.

10 MR. ZAHRALDDIN: Okay.

11 THE COURT: That shouldn't take -- unless did we file  
12 any objections to confirmation you see on the docket? No?

13 THE CLERK: Looking for objections, no.

14 THE COURT: Yeah. No objections. Might be just a 20  
15 minute proposition where they go through and give me the report  
16 of planned voting, say everybody voted in favor and then we --

17 THE CLERK: Because at one point, there was a motion  
18 to convert it, but that got withdrawn.

19 THE COURT: Right. I still haven't gotten -- been  
20 able to get on here. Okay. 12:00, guys. Just show up at  
21 12:00.

22 UNIDENTIFIED SPEAKER: Okay.

23 THE COURT: That should give them a half an hour  
24 to -- because I don't see an objection and then usually they  
25 just make a proffer and I'm done in 15 minutes.

1 MR. ZAHRALDDIN: So we're going to start at 12:00,  
2 start with whatever witnesses and evidence gets put in and then  
3 whenever that's in, argument.

4 THE COURT: Yes. And hopefully that's not going to  
5 take too long.

6 MR. ZAHRALDDIN: Well, I'm hopeful we can stipulate  
7 the things that are in the record below. There won't be that  
8 many of them.

9 THE COURT: Right. Here are the groups. Here are  
10 the people and here's the other people.

11 MR. CAPONI: I mean, look, I'd like to, Your Honor,  
12 but I'm not optimistic, given -- what I just heard was there's  
13 eight unidentified people. I mean, Debtor doesn't -- can't  
14 identify the people. I think that's going to require evidence.

15 MR. ZAHRALDDIN: That's the point of disclosure, Your  
16 Honor. Mr. Caponi maybe he needs to understand that, but when  
17 he raises the issue --

18 THE COURT: Oh, come on now. Come on, guys.

19 MR. ZAHRALDDIN: I'm just saying, Your Honor --

20 MR. CAPONI: I don't understand the law, Your Honor.

21 MR. ZAHRALDDIN: Your Honor, he's telling me that I  
22 can't identify the people, he hasn't identified, potentially is  
23 required to identify. I don't understand that circular  
24 argument.

25 THE COURT: All right. So your position is, there

1 were some people who have been identified and others who should  
2 have been, but have not been because they didn't comply with  
3 the rules. And you're going to put on evidence that there was  
4 a mention of this person, that person, that person, and we  
5 believe these people are covered by the rules and should have  
6 been disclosed. By who, I don't know because if they're not --

7 MR. ZAHRALDDIN: Well, Your Honor, part of the issue  
8 is we're going to have certain lists of people that were in the  
9 Chancery Court that were revealed there. And then we have  
10 heard here from Mr. Caponi and others of other people, mostly  
11 equity holders that are sitting behind SeeCubic, behind perhaps  
12 Albany or Hawk. Albany is the trustee for Hawk.

13 THE COURT: Okay.

14 MR. ZAHRALDDIN: And what we're going to ask is, did  
15 these people disappear?

16 THE COURT: Is Hawk some people in Ca -- where --  
17 Hawk is in Canada?

18 MR. ZAHRALDDIN: Hawk is in the Channel Islands.

19 THE COURT: Who is it?

20 MR. ZAHRALDDIN: Hawk is the second lien creditor we  
21 believe --

22 THE COURT: Oh, I know they are --

23 MR. ZAHRALDDIN: -- has been converted.

24 THE COURT: -- but I'm like, enlighten me, because  
25 Channel Islands is not coming --

1 MR. CAPONI: Off of England.

2 THE COURT: Off of -- okay. So they're the  
3 British -- no, not the British, but --

4 MR. CAPONI: Yes.

5 THE COURT: Is there somebody in Canada?

6 MR. ZAHRALDDIN: Not that we know of --

7 THE COURT: Oh, well then it was Britain.

8 MR. ZAHRALDDIN: -- but we could be surprised.

9 THE COURT: I don't know. I thought -- I knew it was  
10 another country. I was opting for Canada.

11 MR. ZAHRALDDIN: We have people in the UK. We have  
12 some folks in the Channel Islands.

13 THE COURT: I know. That -- okay. I get it. I  
14 recall.

15 MR. ZAHRALDDIN: And look Your Honor, the rule -- and  
16 I think the opposing counsel took and/or the parties took  
17 umbrage at the fact that there are some pretty strict penalties  
18 for not disclosing. We didn't make up the penalties that are  
19 in the rule. There's some pretty serious penalties in there.

20 THE COURT: Do I have some option or I have to put --  
21 I have to --

22 MR. ZAHRALDDIN: It does say that in the Court's  
23 discretion, here are the things that could happen and of course  
24 there's plenty of --

25 THE COURT: Yes. But you --

1 MR. ZAHRALDDIN: -- case law that said that --

2 THE COURT: Unless -- listen --

3 MR. ZAHRALDDIN: -- there's some -- they're pretty  
4 draconian remedies, but you don't have to do that. There can  
5 be other things that can be done.

6 THE COURT: Right. Typically, if somebody has a  
7 valid legal basis for making an argument, I don't know any  
8 court who's going to penalize you, unless you have your  
9 argument has no basis whatsoever and it's just off the wall.

10 MR. ZAHRALDDIN: Well, I'm not talking about fee  
11 shifting, Your Honor. I'm not talking about that.

12 THE COURT: I'm not saying that.

13 MR. ZAHRALDDIN: Yeah.

14 THE COURT: I'm talking about assessing penalties,  
15 assessing --

16 MR. ZAHRALDDIN: Right. Got you.

17 THE COURT: -- failure to comply with the rules. If  
18 you have a valid argument -- I don't know how you penalize  
19 people, but if you have an argument that has no basis in law,  
20 none whatsoever, and you're making it up, then you have a  
21 problem. I'm just saying yes. Okay. It provides for it.  
22 But, you know --

23 MR. ZAHRALDDIN: So hopefully we can get to something  
24 that's stipulated because everything else is on the record.

25 THE COURT: If you can agree to these things, but you

1 can't agree to the rest and then you put some testimony. Or  
2 you can't agree to anything. So, 12:00 on Wednesday. Is  
3 anybody going to appear by Zoom? If Mr. Rajan still has the  
4 flu, he's on the zone.

5 MR. ZAHRALDDIN: I'll tell him that, Your Honor.

6 THE COURT: No -- I had it once. I'm going to just  
7 tell all of you. You do not want that. I had COVID and that.  
8 COVID was a breeze. This thing, hope. I think I had to cancel  
9 a hearing, I was so sick. I have not been that sick in about  
10 10 years. So if he has the flu --

11 MR. ZAHRALDDIN: Stay home.

12 THE COURT: Stay home. Or anybody that has the flu.

13 MR. ZAHRALDDIN: Right.

14 THE COURT: I have my shot now. You can do whatever  
15 you want, but you don't want to get --

16 MR. CAPONI: Yeah. I don't know, on our side, Your  
17 Honor. Obviously, we're going to have to see what evidence  
18 gets put on to decide what our response is going to be, so I'd  
19 be --

20 THE COURT: Would you at least talk to Mr.  
21 Zahralddin --

22 MR. CAPONI: We will.

23 THE COURT: -- and say --

24 MR. CAPONI: Absolutely, Your Honor. I mean --

25 THE COURT: Who are the people you believe and who

1 are the people you should have been disclosed and hopefully  
2 that'll shrink it, but if not, you'll have to put your -- you  
3 know, another day of --

4 MR. CAPONI: Yeah. I think it's unlikely to end  
5 Wednesday, but, you know, we've -- I'll make good progress.

6 THE COURT: Jesus.

7 MR. ZAHRALDDIN: I think it will end Wednesday  
8 because I'm a glass half full guy. I believe we sent over a  
9 list of things. I'll look at it and revise it.

10 MR. ZAHRALDDIN: I think it would have come over last  
11 week, but I'll look at it again and see if I can cut it down --

12 THE COURT: All right. So --

13 MR. ZAHRALDDIN: -- based on the Court's discussion  
14 with me and we'll see if we can get therapist.

15 THE COURT: All right. In the meantime, you guys  
16 have to figure out a time to have Mr. Stastney's testimony and  
17 the two Dutch witnesses.

18 MR. ZAHRALDDIN: And the one California witness.

19 THE COURT: And the one California witness. We need  
20 all -- is -- two, three day -- guys come on. Can we like --  
21 never mind. I'm going to give you your day in court, but the  
22 more -- you know, I -- are we going to finish this before the  
23 end of the year?

24 MR. ZAHRALDDIN: I hope so, since it's our assets at  
25 risk.



1 THE COURT: Well, counsel, they were at risk when you  
2 ca -- never mind.

3 MR. ZAHRALDDIN: Well, it --

4 THE COURT: It --

5 MR. ZAHRALDDIN: -- that doesn't make it any --

6 MR. CAPONI: Like any good dance partner, we're  
7 following the Debtor's lead, so we'll end when they -- you're  
8 tired of dancing.

9 MR. ZAHRALDDIN: I didn't think it was going to end  
10 with a dance with Mr. Caponi. I have to tell you that.

11 THE COURT: Well, whatever. I -- you need to  
12 seriously exchange dates with each other --

13 MR. ZAHRALDDIN: Yeah.

14 THE COURT: -- about --

15 MR. ZAHRALDDIN: We're simply waiting, Your Honor.  
16 We're -- our witness is actually --

17 MR. CAPONI: I've asked.

18 MR. ZAHRALDDIN: -- waiting for them and then they've  
19 got to figure out -- I mean, we're on two different time zones,  
20 so we'll figure it out.

21 THE COURT: Just let me know. I will try to  
22 accommodate. Right now, I looked in my December. I didn't --  
23 am I -- or maybe I was in January or --

24 MR. ZAHRALDDIN: Not between Christmas and New  
25 Year's, I hope.

1 THE COURT: I typically close chambers between  
2 Christmas and New Year's.

3 MR. ZAHRALDDIN: I know. You mentioned that and I  
4 was --

5 THE COURT: I guess I won't be this year --

6 MR. ZAHRALDDIN: No, no, I was happy to hear that. I  
7 don't want to be here.

8 THE COURT: Because I want to get this done, at least  
9 some of this case done before the end of the year. I do plan  
10 to be away, I don't know, between January 2nd and the 9th.  
11 Otherwise my husband might divorce me. So I may be a way --

12 MR. ZAHRALDDIN: I don't want to see you in that  
13 condition, if not getting a lunch makes things bad I don't want  
14 to do that.

15 THE COURT: Listen I'm not a big -- I don't like  
16 vacations. This will --a vacation. So right now the 2nd  
17 through the 9th. And I will know for sure by the end of this  
18 week when we'll be away.

19 MR. CAPONI: Your Honor, we're just -- because the  
20 Debtor's have just finished their case and chief on the TRO,  
21 we're just getting started. So I think that proceeding has to  
22 run its course. I think as new proceedings, new issues come  
23 up, and we begin hearings on them -- speaking only for myself  
24 and without speaking to my client about it first -- we would be  
25 amenable to, you know, equitable time limits in order to make

1 the parties prioritize on what's important.

2 THE COURT: That would make sense, and I did not do  
3 that. I typically try not to because I don't want to deprive  
4 people of their opportunity to present their case, but right  
5 now, we have been going for -- part of it was my -- today was  
6 my question, which I should've never asked or commented that  
7 took us astray, but we may have to -- I may have to ask the  
8 parties for how much time, and say I'm going to strictly  
9 enforce the time. That way we can concentrate, and I will try  
10 my best not to ask questions or comments, and then that way we  
11 can get through.

12 And hopefully -- because at the end of the day, a lot  
13 of this is about Stream and not about Technovative, so I'm not  
14 quite sure whether this would -- you know, no matter what  
15 happens in the other actions, otherwise -- other than granting  
16 a motion to dismiss, would do away with the Stream stuff or  
17 appointing a Chapter 11 Trustee. And that still won't make it  
18 go away because then some other body -- another person would  
19 have to come and figure out what they want to do. So I'm not  
20 quite sure how this is going to streamline anything for me, but  
21 I will do my best to get some of it off and decided so the  
22 parties can have a better idea of what they're doing, with  
23 respect to Technovative, anyway.

24 MR. CAPONI: Just one last note. On Wednesday, I  
25 don't know what the Debtor's intents are, what witnesses

1 they'll need, what we may need to respond to. My understanding  
2 is that they have Mr. Stastney on their list. He's not  
3 available in person on Wednesday. I believe he could testify  
4 by Zoom, if his testimony is necessary. I just don't know  
5 whether or not --

6 MR. COLBY: Well, certainly, we're -- we gave it to  
7 him last week. I know it was a holiday, so I'm not going to  
8 hold him to that and I hope you don't either, Your Honor, or  
9 me. I'm happy to see if we even need Mr. Stastney, if he were  
10 available, in case we need to call him, because I don't want to  
11 be in a situation where they object to --

12 THE COURT: Well, I mean --

13 MR. COLBY: -- and I have to find an alternative.

14 THE COURT: -- the Zoom seems to be working.

15 MR. COLBY: Right.

16 THE COURT: It has worked.

17 MR. CAPONI: And we have no objection to Mr. Stastney  
18 appearing by Zoom.

19 THE COURT: Okay. And then we'll just give him the  
20 Zoom link, and if someone else wants to participate -- I just  
21 want people to identify themselves when they're here, because I  
22 can't see and support -- and we have had incidences where  
23 people have just gone off about observers just not liking what  
24 I'm saying or not liking the consequences of what the Debtor --  
25 or Debtor's friends, and just being very rude and obnoxious.

1 MR. COLBY: I understand.

2 THE COURT: I want to avoid that. I mean, it could  
3 be in court and do it, too, but at least I can call the  
4 Marshall to come get them.

5 So we will start at 12 on Wednesday. If Mr. Stastney  
6 needs to testify as a witness, he can appear by Zoom.

7 Any other witness -- Mr. Rajan (phonetic), if he's  
8 sick, he's Zoom.

9 Any other witness?

10 MR. CAPONI: I'd have to look, Your Honor, to see,  
11 because we -- it was -- I don't know if I have the list.

12 Was there anybody else we listed, Mr. Shaw? Do you  
13 know?

14 MR. SHAW: Eileen, if we need her.

15 THE COURT: Oh. Hi, Eileen.

16 UNIDENTIFIED SPEAKER: Hi, Judge. I'm trying to log  
17 in.

18 THE COURT: Well, we're getting ready to shut down,  
19 so don't worry about it. I'll call you later about those  
20 emergencies.

21 Oh, wait. Hold on, Eileen. Hold on.

22 You have access to dates that are available in  
23 December. Just give them --

24 UNIDENTIFIED SPEAKER: Yep.

25 THE COURT: All right. What --

1 UNIDENTIFIED SPEAKER: Yeah, if you can give me just  
2 two seconds.

3 THE COURT: Okay.

4 UNIDENTIFIED SPEAKER: I can, hopefully.

5 MR. CAPONI: Your Honor, while she's looking for the  
6 dates, just because you mentioned you don't necessarily see  
7 everything that hits the docket, I just wanted to let the Court  
8 know that the district court did deny the motion to withdraw  
9 the reference. That issue was kind of hanging out there.

10 MR. COLBY: You saw that already. I would've thought  
11 you'd already seen that, Your Honor.

12 THE COURT: Oh.

13 MR. COLBY: Yeah. She had basically said that the  
14 motion to be withdrawn --

15 THE COURT: Wait, when was it issued?

16 MR. CAPONI: November 16th.

17 MR. COLBY: Yeah.

18 THE COURT: They typically mail me a copy.

19 MR. CAPONI: It echoed our discussion where it said  
20 that if she needs to do a trial, she'll do a trial.

21 THE COURT: Yeah, after I do the magistrate work.

22 MR. COLBY: It echoed the thing, so same thing.

23 THE COURT: That's typically what happens is they're  
24 like, you do everything.

25 MR. COLBY: There are other aspects of it

1 highlighted, but Your Honor can read it.

2 MR. CAPONI: You can read it, Judge.

3 THE COURT: What does she want me to do?

4 MR. CAPONI: She didn't -- it's Judge Marsten  
5 (phonetic) and the only highlights are they -- whoever wrote it  
6 adopted most of what Skadden put into their pleadings on the  
7 prior history. I'm sure that's what they want to talk about.

8 THE COURT: Oh, okay. Well, what am I supposed to do  
9 with that?

10 MR. COLBY: I don't think anything, Your Honor.

11 MR. CAPONI: Nothing, Your Honor. I just wanted to  
12 let you know that the decision came down because I know you --

13 MR. COLBY: Yeah.

14 MR. CAPONI: -- mentioned you don't always get  
15 notified.

16 THE COURT: No, I don't, and I don't read the  
17 documents. No, I have asked the IT to make this one of their  
18 cases. I can make certain cases where any filings I get notice  
19 of.

20 MR. COLBY: I'm surprised you didn't get it.

21 THE COURT: And I thought they had already done that,  
22 but apparently not yet.

23 We did or you didn't see? Okay.

24 MR. CAPONI: Okay. Okay, so you did see it. All  
25 right.

1 THE COURT: Somebody saw it.

2 MR. CAPONI: All right.

3 THE COURT: The 16th. When was that? And I didn't  
4 see it?

5 MR. CAPONI: Yeah.

6 MR. KODOSKY: Your Honor, I didn't find out about it  
7 until Wednesday of last week, so --

8 THE COURT: They typically do send us a copy, a  
9 courtesy copy, but I don't have a JA, so who knows where my,  
10 you know -- I don't know. All right.

11 MR. CAPONI: Your Honor, I ask one --

12 UNIDENTIFIED SPEAKER: It's plugged in. I'm in now.

13 MR. CAPONI: All right.

14 THE COURT: All right. What do I have available in  
15 December?

16 UNIDENTIFIED SPEAKER: Okay. I have Monday, December  
17 4th. I don't see anything on your calendar.

18 THE COURT: Anything personal on the 4th?

19 UNIDENTIFIED SPEAKER: I don't have anything with --  
20 I'm looking at your calendar and I don't see anything there for  
21 December 4th.

22 THE COURT: All right. I'm good then, the 4th.  
23 What else?

24 UNIDENTIFIED SPEAKER: This next week, we did have  
25 something but it got cancelled for the 5th. It was settled.



1 Hold on. That was Hollis (phonetic). That was --

2 THE COURT: So that would be the -- so we would have  
3 all day on the 4th?

4 UNIDENTIFIED SPEAKER: Um-hum.

5 THE COURT: A half a day on the 5th, because I would  
6 hear my regular list?

7 UNIDENTIFIED SPEAKER: Right, exactly.

8 THE COURT: What's on the 6th?

9 UNIDENTIFIED SPEAKER: All right. On the 6th. Let  
10 me see what I have on December the 6th. Okay. I don't think  
11 we have anything.

12 THE COURT: That's a --

13 UNIDENTIFIED SPEAKER: We have a trial on the 6th.

14 THE COURT: What trial? Who's that?

15 UNIDENTIFIED SPEAKER: Financial Investments. It's a  
16 trial and a motion to be considered to get a default order at  
17 12:30.

18 THE COURT: Okay, so that's out.

19 UNIDENTIFIED SPEAKER: Um-hum. And let's see. The  
20 7th, I have just a regular 9:30 and an 11:00. Hold on one sec  
21 here. It looks like we do have a 9:30 and an 11:00 on the 7th.  
22 Let me see.

23 THE COURT: Anything --

24 UNIDENTIFIED SPEAKER: You have MJ Fencing (phonetic)  
25 and our holiday party.

1 THE COURT: That's -- the holiday party is for the  
2 EDPA. That one?

3 UNIDENTIFIED SPEAKER: Yeah.

4 THE COURT: I haven't attended in two years. I guess  
5 I have to go.

6 UNIDENTIFIED SPEAKER: Okay. Yes. I think that's  
7 not until 6:00, though.

8 THE COURT: Right, but I did promise to show up this  
9 year.

10 MR. CAPONI: It's the inner-workings.

11 THE COURT: All right.

12 UNIDENTIFIED SPEAKER: You have until, like, say  
13 12:30 to --

14 THE COURT: To 6:00.

15 UNIDENTIFIED SPEAKER: I'd say 5:00.

16 THE COURT: I only go for a little bit. Okay. So  
17 that's -- so we have that date, the 7th, right?

18 UNIDENTIFIED SPEAKER: Right. The 7th, correct?

19 THE COURT: So from 12:30 to 6:00?

20 UNIDENTIFIED SPEAKER: Um-hum.

21 THE COURT: Okay.

22 UNIDENTIFIED SPEAKER: All right. The following  
23 week, let me just see. All right. On the 11th, we do have  
24 Stream TV.

25 THE COURT: Well, we can't -- we're not adding

1 anything to that. Keep going.

2 UNIDENTIFIED SPEAKER: Okay. The 12th, let me see.  
3 It looks like -- oh, I have nothing.

4 THE COURT: That's a Thursday?

5 UNIDENTIFIED SPEAKER: The 12th is a Tuesday.

6 THE COURT: Tuesday.

7 UNIDENTIFIED SPEAKER: I mean, we have our regular  
8 list.

9 THE COURT: So we have the afternoon from 12 to 6,  
10 7 --

11 UNIDENTIFIED SPEAKER: Yeah.

12 THE COURT: -- on Tuesday the 12th.

13 What about the 13th? That's a Thursday.

14 UNIDENTIFIED SPEAKER: The 13th --

15 MR. CAPONI: Wednesday.

16 THE COURT: A Wednesday.

17 UNIDENTIFIED SPEAKER: Let me look.

18 THE COURT: Look on -- on the Wednesdays, my personal  
19 calendar, I always have -- I have my injections every other  
20 week.

21 UNIDENTIFIED SPEAKER: Yeah.

22 THE COURT: So I don't even know what -- I did it  
23 last week, so the 11th I have to go.

24 UNIDENTIFIED SPEAKER: So you did it last Wednesday  
25 which is the 29th.

1 THE COURT: No, the 29th --

2 UNIDENTIFIED SPEAKER: No, no, no.

3 THE COURT: -- is this Wednesday.

4 UNIDENTIFIED SPEAKER: I'm sorry. Which was the  
5 22nd, so you would have that on the 6th.

6 THE COURT: Right, that's the next one.

7 UNIDENTIFIED SPEAKER: Right. And then you would  
8 have the next one on the 20th.

9 THE COURT: Yes, okay.

10 UNIDENTIFIED SPEAKER: Injection.

11 THE COURT: Yeah, um-hum.

12 UNIDENTIFIED SPEAKER: So on -- it looks like the  
13 13th is a good day, as well.

14 THE COURT: Would that --

15 UNIDENTIFIED SPEAKER: A Wednesday.

16 THE COURT: The afternoon from the 12 to 6?

17 UNIDENTIFIED SPEAKER: From the 12 -- from 12:00 on.

18 We have something at 11:30, but that's our typical 11:30

19 Chapter 11 cases.

20 THE COURT: Okay.

21 UNIDENTIFIED SPEAKER: So we have the 13th is good,  
22 and then the 14th, we have -- I believe we have Stream TV on  
23 the 14th, as well.

24 THE COURT: For what?

25 UNIDENTIFIED SPEAKER: A continued hearing, isn't it?

1 THE COURT: A what hearing?

2 UNIDENTIFIED SPEAKER: It's a continued.

3 THE COURT: I think we kept that date open in case  
4 they needed it. Keep it open, see what they tell us. We'll  
5 see what you guys tell us.

6 UNIDENTIFIED SPEAKER: Yeah.

7 THE COURT: All right.

8 UNIDENTIFIED SPEAKER: Okay.

9 THE COURT: And then the 15th, what do we have?

10 UNIDENTIFIED SPEAKER: And the 15th, I have nothing,  
11 which is a Friday. Let's see if you have anything.

12 THE COURT: Typically not, unless I have --

13 UNIDENTIFIED SPEAKER: A Penn Dental --

14 THE COURT: Hmm, I'll call and figure it out. There  
15 is one appointment on there, it's Soffer, S-O-F-F-E-R, nothing  
16 can come --

17 UNIDENTIFIED SPEAKER: Okay.

18 THE COURT: I think that might be the 22nd.

19 UNIDENTIFIED SPEAKER: Oh, okay.

20 THE COURT: So, never mind.

21 UNIDENTIFIED SPEAKER: On the 15th, I've got, see  
22 Penn Dental.

23 THE COURT: What time?

24 UNIDENTIFIED SPEAKER: At 1:00.

25 THE COURT: Ugh, all right. Let me -- let's hold up

1 on that and I'll figure that out.

2 UNIDENTIFIED SPEAKER: Okay. And then if we go to  
3 the following week --

4 THE COURT: Which is Christmas week, right?

5 UNIDENTIFIED SPEAKER: Which is the week before  
6 Christmas, yes.

7 THE COURT: Oh.

8 UNIDENTIFIED SPEAKER: We have a trial on 12/18.

9 THE COURT: That's --

10 UNIDENTIFIED SPEAKER: Well, it's actually status and  
11 a trial on Trains Joel Specialty (phonetic), again. So --

12 THE COURT: I think that one will go. That's a  
13 Monday, right?

14 UNIDENTIFIED SPEAKER: Correct. And then on Tuesday,  
15 the 19th, we have no trials.

16 THE COURT: Well, we can have the afternoon. I hope  
17 somebody is writing this. The 19th, 12 to 6.

18 UNIDENTIFIED SPEAKER: The 19th is good.

19 THE COURT: Next?

20 UNIDENTIFIED SPEAKER: Let's see. The 20th, I don't  
21 have anything on your calendar.

22 THE COURT: That's a Wednesday?

23 UNIDENTIFIED SPEAKER: That's a Wednesday, correct.

24 THE COURT: So we have 12 to 6 on Wednesday the 20th.

25 UNIDENTIFIED SPEAKER: Yeah, the 20th looks good, as

1 well. And then let's see, the 21st, we have typical, you know,  
2 I don't have anything --

3 THE COURT: From 12 to 6 for Thursday? 12 to 6 for  
4 that day.

5 UNIDENTIFIED SPEAKER: Sorry?

6 THE COURT: 12 to 6? That's the 20th, you said?

7 UNIDENTIFIED SPEAKER: The 21st.

8 THE COURT: 21st.

9 UNIDENTIFIED SPEAKER: The 20th and the 21st are  
10 good, Judge.

11 THE COURT: All right. And what about the -- that's  
12 all right. It's first thing in the morning.

13 UNIDENTIFIED SPEAKER: Oh, okay. All right then. So  
14 the 20th and 21st are good. All right. And then the 22nd you  
15 have something. Dr. Soffer?

16 THE COURT: Nothing can come between that. What time  
17 is that? 4:00 probably.

18 UNIDENTIFIED SPEAKER: It's at 4:00, correct.

19 THE COURT: Right. So you guys can have some 10:30  
20 to 3 on that day.

21 MR. CAPONI: That's 20.

22 THE COURT: Okay.

23 UNIDENTIFIED SPEAKER: Okay, and then it's Christmas.

24 THE COURT: Anybody want hearings the week of  
25 Christmas? Oh, wait. The 22nd, forget it. That Monday is

1 Christmas, right?

2 MR. CAPONI: Correct.

3 UNIDENTIFIED SPEAKER: Christmas is Monday the 22nd,  
4 yes.

5 THE COURT: 26th, anybody want? No. 27?

6 MR. COLBY: Going once, going twice.

7 THE COURT: 28? No. And then you have to because  
8 I'm not going to -- if I go away, I'm leaving on the 2nd and I  
9 won't be back until the 9th, so think about that.

10 MR. COLBY: We will make every effort to fit it in.  
11 We have a range of options.

12 THE COURT: You have a range of options.

13 MR. COLBY: We will do what we can.

14 THE COURT: Okay. And that's to finish both,  
15 assuming that we don't finish the hearing on the 19th, on  
16 Wednesday. That's to finish that and to finish Mr. Stastney's  
17 testimony, the two Dutch witnesses, and Mr. who from  
18 California?

19 MR. ZAHRALDDIN: Mr. Banerjee (phonetic).

20 THE COURT: Banerjee?

21 MR. ZAHRALDDIN: Croschek (phonetic) Banerjee.

22 THE COURT: Okay. All right. I think we should be  
23 able to get at least -- how many witnesses do we have? Four  
24 witnesses? Even if we do one day for each one of these  
25 witnesses, four hours, four or five hours, we should get all



1 four of them done. I think we have enough dates to get four  
2 people done.

3 MR. COLBY: Well, in effort to keep it short, I think  
4 that colloquy today was helpful. I don't know if you noticed,  
5 but after we had that, I was very brief with Mr. Michaels,  
6 so --

7 THE COURT: It wasn't to tell you to be brief, but I  
8 mean, I think sometimes as litigators, you guys think you're  
9 playing to a jury, and sometimes, you get caught up into hours.  
10 I litigated once. I know sometimes I lost the forest for the  
11 trees -- whatever. I didn't see the forest. I saw the trees,  
12 and it's very easy to get done. And so I understand. I just  
13 sometimes think that people don't focus on what is it that I  
14 need to give the Judge on the trier of fact to get what I want.  
15 And I'm not -- you know, even though sometimes I get a little  
16 irate, I tend very much to try to be very -- take my emotions  
17 out of any decision that I make, for the most part.

18 MR. COLBY: We appreciate that.

19 MR. ZAHRALDDIN: May I release my witness, Judge?

20 THE COURT: Oh. What witness?

21 MR. ZAHRALDDIN: Eileen.

22 THE COURT: Oh, yes, Ms. -- yes, Eileen.

23 MR. ZAHRALDDIN: All right, Eileen. I'm hanging up  
24 on you.

25 THE COURT: All right, and this will be over.

1 MR. ZAHRALDDIN: Thank you.

2 UNIDENTIFIED SPEAKER: I have a question.

3 MR. ZAHRALDDIN: Oh, she has a question.

4 UNIDENTIFIED SPEAKER: Judge, all these dates are for  
5 the adversary?

6 THE COURT: Yes. They are for the preliminary  
7 injunction --

8 UNIDENTIFIED SPEAKER: Okay.

9 THE COURT: -- TRO.

10 UNIDENTIFIED SPEAKER: Okay. And what happened to  
11 the motion for Stie (phonetic)? That was scheduled also for  
12 today, but I guess you never got to it, right?

13 MR. ZAHRALDDIN: Well, Your Honor, I think what we  
14 discussed was if we could get to a compromise on the worldwide  
15 piece of it, that we would wait to see when Your Honor had a  
16 little more room on the calendar. So depending upon what days  
17 come back, maybe we can --

18 THE COURT: Well, I thought the parties were going to  
19 try to see if you could submit an order that had been entered  
20 in --

21 MR. ZAHRALDDIN: Absolutely. And what I did --

22 THE COURT: Are you working on that?

23 MR. ZAHRALDDIN: I stayed late on Wednesday instead  
24 of going out and seeing all the people that came back home, got  
25 out a version of the order, and we attached, I think, three --

1 no, I think four or five -- I might be, you know, misstating  
2 that, but we attached several from other cases to the motion so  
3 they could look at those cases, they could send us orders.  
4 Otherwise, I am waiting for them to send me something back. I  
5 just --

6 THE COURT: And then if you guys can agree on  
7 language, do I even need to hear anything and it's an agreed  
8 order? If not --

9 MR. ZAHRALDDIN: I'll send competing orders in.

10 THE COURT: Then just send me and all I'm going to  
11 have -- because first of all, one, why should I do it. That's  
12 legal argument. Why should I? And then if I do, this is what  
13 it should say. That shouldn't take too long. Shouldn't.

14 MR. ZAHRALDDIN: Shouldn't.

15 THE COURT: Shouldn't take too long.

16 MR. ZAHRALDDIN: Shouldn't.

17 THE COURT: Shouldn't. All right. So why don't you  
18 continue the discussions with counsel on that order, and then  
19 if you can submit an agreed order, we'll try to put it on, on  
20 one of those days.

21 MR. ZAHRALDDIN: And what I also will do is I will  
22 try to respond to the latest questions in the mediation and see  
23 if I can't push that, as well, because that might solve at  
24 least part of what we requested in our stay violations motion.

25 THE COURT: All right. And I understand with respect

1 to the stay violations motion, you may be able to come to a  
2 stipulated record on that, relying and citing to the records in  
3 the various hearings that we've had.

4 MR. ZAHRALDDIN: Yes, Your Honor.

5 THE COURT: And that would, you know, make it easier  
6 that we wouldn't have to be in court and would actually be  
7 addressing some of the issues.

8 Anything further from anyone?

9 MR. ZAHRALDDIN: Your Honor, the only other thing  
10 that my client has requested is that to the extent that there  
11 is relief requested in the TRO that doesn't -- that Mr.  
12 Barenbach (phonetic) and I've got to get Mr. Hodges (phonetic)  
13 -- the two folks from the Netherlands --

14 THE COURT: This is Barenbrug (phonetic)?

15 MR. ZAHRALDDIN: Yeah. To the extent that they or  
16 Mr. Banerjee have no impact on some of the relief that we've  
17 requested -- for example, the trademark issue has nothing to do  
18 with anybody in the Netherlands, etcetera. Would you consider  
19 looking at those issues and maybe disposing of them beforehand?

20 THE COURT: What issue?

21 MR. ZAHRALDDIN: The trademark. The filing of a --  
22 and I can't say it any other way --

23 THE COURT: Oh, wait. You're asking me with respect  
24 to violation of the automatic stay by filing with Mister --

25 MR. ZAHRALDDIN: Or giving us a TRO. For example, to

1 please stop filing things falsely with the USPTO.

2 THE COURT: Well, that wouldn't -- well, I wouldn't  
3 say please stop filing things falsely. I might say don't file  
4 anything until we resolve this matter.

5 MR. COLBY: Yeah, I think -- I mean, we -- I  
6 understand --

7 MR. ZAHRALDDIN: Either one would be nice.

8 MR. COLBY: I understand Mr. Zahralddin to be  
9 requesting for partial relief.

10 MR. ZAHRALDDIN: That's what I --

11 MR. COLBY: They just closed their case. Now, we  
12 haven't had any chance to respond --

13 MR. ZAHRALDDIN: Understood.

14 MR. COLBY: -- with our own witnesses, so I think  
15 that's premature.

16 THE COURT: Well, I would think --

17 MR. ZAHRALDDIN: It can --

18 THE COURT: -- without granting anybody's request,  
19 don't file anything. I don't think I should have to tell  
20 anybody that. Don't do it until at least you come here and I  
21 figure something else, unless, listen, if you want to -- again,  
22 if your counsel tells you that you believe you can proceed, and  
23 you proceed and you do at your own risk, and if I find that,  
24 you know, even if counsel may have had reasonable basis to tell  
25 you to do something, that has nothing to do with 360 2K.

1 MR. ZAHRALDDIN: Yeah.

2 THE COURT: Okay? I always tell people, I error on  
3 the side of caution. If there's even a likelihood that your  
4 actions are going to violate the State or could be deemed a  
5 violation, come ask for a relief. That's all I tell people.

6 MR. ZAHRALDDIN: And Your Honor, Mr. Colby is right.  
7 I should not be asking for --

8 THE COURT: No.

9 MR. ZAHRALDDIN: -- that relief prematurely, but if  
10 we get to a point where we're not looking at rebuttal, I may  
11 ask again.

12 THE COURT: Well, all I can tell you is my -- I  
13 caution people. Proceed at your own risk. I'm not saying I'm  
14 going to tell you what you did was improper, but if it turns  
15 out it is and it's a violation of the State, it's a costly,  
16 very costly, decision. So again, people can do whatever they  
17 want. I would just say --

18 MR. COLBY: Thank you, Your Honor.

19 THE COURT: -- don't do it.

20 MR. ZAHRALDDIN: Let's just hear the evidence on it  
21 and the explanation and then --

22 THE COURT: Well, let me just say you can have all  
23 the -- people will go do things and they can have a valid  
24 explanation. That doesn't mean it's not a violation. It only  
25 means what your sanctions are going to be.

1 MR. ZAHRALDDIN: I understand.

2 THE COURT: I'm not -- and I don't want anybody to  
3 say that I'm finding that it was or wasn't or any of those  
4 things. I'll hear the explanation and I'll, you know -- I've  
5 only heard one side. I've only seen one document, one side  
6 documents, but just a caution people. Proceed at your own  
7 risk.

8 MR. ZAHRALDDIN: Understood.

9 THE COURT: All right.

10 MR. CAPONI: That's all the Debtor's have, Your  
11 Honor.

12 THE COURT: All right. That concludes the matters  
13 that are scheduled before the Court today. Court is adjourned  
14 until -- tomorrow is Tuesday, right?

15 MR. CAPONI: Um-hum.

16 THE COURT: 10:30.

17 UNIDENTIFIED SPEAKER: Yep.

18 THE COURT: 10:30. Thank you.

19 MR. COLBY: Thank you, Your Honor.

20 THE COURT: All right.

21 (Proceedings adjourned)

22

23

24

25

C E R T I F I C A T E

I hereby certify that the foregoing is a true and correct transcript from the electronic sound recording of the proceedings in the above-entitled matter.

*John Buckley*

\_\_\_\_\_  
John Buckley, CET-623  
Digital Court Proofreader